




















**W. SIMMONS,**

*N. BRIDGEWATER,*





INTRODUCTION  
TO THE  
SCIENCE OF GOVERNMENT,  
AND  
COMPEND OF CONSTITUTIONAL AND CIVIL  
JURISPRUDENCE;  
COMPREHENDING A GENERAL VIEW OF THE  
GOVERNMENT OF THE UNITED STATES,  
AND OF THE  
GOVERNMENT OF THE STATE OF NEW YORK  
TOGETHER WITH  
THE MOST IMPORTANT PROVISIONS IN THE CON-  
STITUTIONS OF THE SEVERAL STATES.  
ADAPTED TO PURPOSES OF INSTRUCTION IN FAMILIES  
AND SCHOOLS.

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BY ANDREW W. YOUNG.

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## PREFACE.

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It is the peculiar fortune of the people of the United States, to live under a government that secures to them, in an extraordinary degree, the blessings of civil and religious liberty. It is believed that no other form of government is capable of conferring upon its citizens an equal amount of happiness.

Under our constitution, sovereignty resides with the people: in other words, they have the power of governing themselves. Consequently, it is of the first importance, that the depositories of political power should know how to apply this power intelligently and judiciously. The power to make and to administer the laws, is delegated to the representatives and agents of the people; the people should therefore be competent to judge when, and how far, this power is constitutionally and beneficially exercised.

Distinguished as the American people are for their comparative general intelligence, a large portion of them, it must be confessed, are greatly wanting in political knowledge. And while so many books have been prepared to facilitate the means of instruction, and so much has been done in various ways to promote the interests of education generally, it is remarkable that the science of government has received so little attention.

Multitudes in this republic are annually arriving at that period of life, when they are to exercise, for the first time, their privileges as citizens. In the state of New York alone, the number is about *fifteen thousand*, and is composed, chiefly, of those whose education does not embrace even the first principles of political science. It is not to

be expected that political power, in such hands, can be exercised with safety to the government, or with benefit to the community.

In the education of youth for the business of life, it seems almost to be forgotten, that they are ever to assume the duties of *citizens*—duties of paramount importance, on the due performance of which, their individual happiness, as well as the happiness and prosperity of the nation, mainly depends.

The following just and forcible observations, are from a late report of the superintendent of common schools of the state of New York. They are entitled to the consideration of every citizen of this republic :

“ On our common schools we must rely to prepare the great body of the people for maintaining inviolate the rights of freemen. If the political fabric cannot find in the public intelligence, a basis broad and firm enough to uphold it, it cannot long resist the shocks to which, through the collision of contending interests, it is continually exposed. Forty-nine out of every fifty of our citizens, receive their education in the common schools. As they advance to manhood, they are, for the most part, devoted to manual employments. Looking to their own industry as their only resource, and to its fruits as the boundaries of their personal desires the object nearest their hearts is to see their country prosperous, the laws administered with order and regularity, and the political importance, which the constitution has secured to them, maintained undiminished. The controversies to which conflicting interests give birth, are to be put at rest by their decision. In the questions of policy which are presented to them, constitutional principles are frequently involved, and the relation they bear, and may in all future time bear to the government, is directly or indirectly affected. How im-

portant is it that their decisions should be as enlightened as they will be honest; that with every motive to be upright and conscientious in the exercise of their political rights, they should combine also the capacity to maintain them with independence and discretion! If they shall ever cease to bring to the settlement of these great questions a sound and enlightend discrimination, they cannot fail to become the dupes of artful leaders, and their country a prey to internal discord. From the genius of our political institutions, popular education is our only security against present and future dangers. Ignorance is said to be the parent of vice. With us it would also be the parent of those fatal disorders in the body politic, which have their cerain issue in anarchy."

In presenting this work to the public, the compiler intends to supply, in some measure, a deficiency that has too long existed in the course of education in this country. Several excellent treatises on the principles of government, and constitutional jurisprudence, have been published within a few years. But it is believed that of those which are intended as class books, none are well adapted to the condition of our common schools.

But it is not for common schools exclusively, that this work is intended. It is believed that there are individuals in almost every family, who will find in it much valuable information to which they have not before had access.

The author has endeavored, throughout the work, to present each subject in a plain and familiar style; and it is believed the language will be found sufficiently intelligible to those who are of suitable age and capacity to be benefited by the study of this science. And he would here take occasion to remind the reader or student of the importance of referring to his dictionary for the definition

of such words as may not be understood. Much of the advantage of reading is often lost, especially to young persons, by the neglect of this practice.

The questions relating to the several sections, are deemed useful in exercising the pupil. A few only are inserted, leaving it to the teacher to add such further interrogatories as he shall find necessary. Teachers will also find occasion to tax their own resources, in enlarging upon and illustrating the several subjects, which could not be fully treated, without swelling the work to an improper size.

The chapter on the rights of landlord and tenant, not being originally designed for insertion, does not occupy its appropriate place in the work; but as it was deemed too important to be omitted, it has been inserted in the Appendix.

Originality in a work of this kind is hardly to be expected. Whatever of merit, therefore, may be awarded to this unpretending volume, is chiefly due to other and abler authors. Among the works to which the compiler is indebted, he would particularly mention, Sullivan's "Political Class Book," Chipman's "Principles of Government," Duer's "Outlines of Constitutional Jurisprudence," and the invaluable "Commentaries" of Story and Kent.

With the hope that this treatise, notwithstanding its imperfections, will be found in some degree useful, it is respectfully offered to the patronage of a liberal community.

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# PART FIRST.

## OF THE PRINCIPLES OF GOVERNMENT

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### CHAPTER I.

*Of Man, as fitted for Society, and for Civil Government and Laws.*

1. It has been maintained that the savage state is the only natural state of man, and that he can, in no other state, be perfectly happy. It is supposed that social improvement generates a wicked disposition in man, which might, in an uncivilized state, forever lie dormant; and that civil government has a tendency to encourage vice, and becomes the cause of the miseries that exist in society, instead of preventing them.

2. Others maintain that the necessity of laws arises from the wicked disposition of man: that they are necessary only to restrain the evil and violent passions; and to prevent the miseries which men are prone to inflict on each other: consequently, were all men truly virtuous and purely benevolent, laws for their government would be wholly unnecessary.

3. There are others who hold that man was originally

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1. What is said of man in the savage state; and of the effect of civil government on man's happiness? 2. From what do others say arises the necessity of laws? 3. What other opinion is held

designed for civil government, and that he is under a necessity of nature to adopt it; but who hold, at the same time, that, on entering into civil society, he necessarily gives up a portion of his natural liberty, of his natural rights, to secure the remainder. It seems to follow, as the conclusion of this theory, that man is but partially fitted for civil society. This opinion, however, is supported by many of the most distinguished political writers.

4. But a theory somewhat different from these, and, it is believed, a more correct one, has been adopted by some writers, who maintain, that man is fitted for society by the constitution and laws of his nature; and that, for the secure enjoyment of both natural and civil rights, government and laws are necessary to social beings, with whatever virtues they may be endued.

5. But whatever difference of opinion may prevail in regard to the correctness of these several theories, few, it is presumed, will doubt, that man is fitted by nature for society and civil government: and that, in his present state, civil government and laws are necessary for the regulation of his conduct.

6. "Man is so formed by nature," says Vattel, "that he cannot suffer by himself, and he necessarily stands in need of the assistance and support of creatures like himself, to preserve and protect his own being, and to enjoy the life of a rational animal. This is sufficiently proved by experience. We have instances of men nourished among the bears, who had neither a language nor the use of reason, and, like the beasts, had only the sensual powers.

7. "We see moreover that nature has refused men the natural strength and arms with which she has furnished other animals, giving them, instead of these advantages, those of reason and speech, or at least of acquiring them by a commerce with their fellow beings. Speech enables them to converse with each other, and to extend and raise

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on this subject? To what conclusion does this theory lead? 4. What other theory has been adopted, in relation to man's capacity for society and civil government, and the necessity of laws? 6, 7.



to perfection their reason and knowledge; and, being thus rendered intelligent, they find a thousand methods of preserving themselves, and supplying their wants. Every one also becomes sensible that he can neither live happily, nor improve himself, without the assistance and conversation of others. Since, then, nature has thus formed mankind, it is a manifest proof that she has designed they should converse with one another, and grant to each other their mutual assistance."

8. That man is by nature designed for society, may be inferred also from his appetite to associate with his fellow man. The appetite or propensity for this association, and the pleasure derived from it, are common to all mankind, and evidently originate in their nature.

9. Man seems equally fitted for civil government. He has been endowed with high moral and intellectual faculties. He has the power to discern his own wants and the wants of others. He has a moral perception of what is right and what is wrong, and a sense of his obligation to do what is right, and to forbear to do what is wrong. His reason enables him to understand the meaning of laws, and to discover what laws are necessary to regulate human actions.

10. Patriotism, or love of country, prevails universally among mankind; and this national attachment leads men to seek and to promote the welfare of the community to which they belong, and contributes much to the fitting of them for civil government.

11. But with all his adaptation to society, and his capacities for civil government, man, being imperfect, will be guilty of deviating from the rule of rectitude, and of infringing the rights of others. Whether this transgression be the consequence of ignorance, weakness in judging, or inattention in examining; or whether it result

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8. How is man formed by nature? How is this proved? What advantage does man derive from the faculty of speech? 9, 10. Wherein consists the evidence that man is fitted for civil government? 11. Why are laws necessary to regulate the conduct of men?

from a disposition habitually vicious; laws are necessary to regulate the conduct of men toward each other, and to secure to the members of a community the enjoyment of their rights. Without laws, there would be no security to person or property; the evil passions of men would prompt them to commit all manner of wrongs against each other, and render society. (if society can be said to exist without law,) a scene of violence and confusion.

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## CHAPTER II.

*Of Rights and Liberty.—Natural, Civil and Political Rights and Liberty—Right of Opinion.*

12. THE word *right*, when applied to action, signifies what is fit and proper to be done, as opposed to wrong. But as a substantive, in the sense in which it is here used, it means the just title or claim which a person has to any thing; and it signifies that the thing belongs to him who is said to have the right. Thus it is declared in the American Declaration of Independence: "that all men are endowed with certain unalienable *rights*; that among these are life, liberty, and the pursuit of happiness; that to secure these *rights*, governments are instituted among men, deriving their just powers from the consent of the governed; and that, whenever any form of government becomes destructive of these ends, it is the *right* of the people to alter or abolish it."

13. The object of civil institutions is, or ought to be, the security of those personal rights, in the full and free enjoyment of which true liberty consists. The rights of mankind are denominated, first, natural rights; secondly, political rights; and thirdly, civil rights.

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12. What is the definition of the word *right*, as applied to action? What as a substantive? In what sense is it here used? 13. What is the object of civil institutions? 11. What are *natural rights*?

14. *Natural rights* are said to consist in the rights of personal liberty, of personal security, and of private property. These laws originate in the *laws of our nature*; and they cannot be forfeited but by the commission of some crime against the good and wholesome laws of the community.

15. Political and civil rights are generally considered and treated as belonging to the same class of rights; although each is clearly a distinct class. *Political rights* are the rights and powers granted to the people by the *constitution*, or *fundamental law* of the state. The right and power of making laws, the power of appointing, electing and controlling the officers of a government, and the right of altering and amending the constitution itself, are rights conferred by the constitution, and are therefore properly denominated *political rights*.

16. *Civil rights* are those that are guarantied to citizens by civil institutions, and are contained in the class of natural rights—the right of personal liberty, of personal security, and of private property, together with the numerous rights derived from these. They are called natural rights, as they have their foundation in the laws of social nature; but they are denominated civil rights, because, for their secure enjoyment, they depend on the social or civil compact. By *civil compact* is understood that agreement or contract, by the terms of which the members of a community are governed. The right to obtain legal redress for an injury done by another, or the right secured to an individual by the laws of the community to which he belongs, of enjoying the free use of his property, are therefore termed *civil rights*.

17. *Liberty*, applied to man, consists in the free exercise and enjoyment of his rights; and this liberty is either natural, civil, or political, according as reference is had to one or the other of these rights. Herein consists the difference between *liberty* and *right*: the latter signifying

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15, 16. What is the distinction between *political* and *civil* rights? What is understood by *civil compact*? 17. What is *liberty*? The difference between *liberty* and *right*? 18. In what does *natural* lib-

the just *claim* or *title* which a person has to any thing ; the former, the *exercise* and *enjoyment* of his rights.

18. *Natural liberty* consists in a power and freedom of acting as one thinks fit, without any constraint or control, unless by the laws of his social nature. In other words, moral or natural liberty is a permission which nature gives to all mankind of disposing of their persons and property, in such a manner as they shall judge most consonant with their own happiness ; on condition that they act according to the laws of nature ; that they do not in any way abuse it to the prejudice of other men ; and that they observe towards others all the moral duties enjoined by these laws.

19. It is not essential to the enjoyment of natural liberty, that a man may do whatever his passions may urge him to attempt. If, therefore, moral obligation be consistent with moral or natural liberty, it would seem that man does not necessarily give up, as some suppose that he does, a portion of his natural liberty, when he enters into civil society. The physical power to injure himself or others, does not imply that the laws of his nature give him a right to do so. The law of nature is founded on the principles of justice ; which require every man to regard the rights of others as well as his own.

20. *Civil liberty* consists in the secure exercise and enjoyment of all civil rights. It is that liberty which a man enjoys as a member of society, and is said to be no other than natural liberty just so far restrained as is necessary and expedient for the general advantage of the public. It can be enjoyed only under an upright and impartial administration of just, equal and expedient laws.

21. *Political liberty* consists in the exercise and enjoyment of political rights, rights reserved to the people by the constitution, the fundamental laws of a state, in such manner, and under such regulations only, as are provided

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erty consist? 19. What does natural liberty not license a man to do? On what is the law of nature founded? 20. What is *civil* liberty? How only can it be enjoyed? 21. What is *political* lib-

and authorized by these laws. The important end of political liberty, and for which alone it is valuable, is to secure the permanent enjoyment of civil liberty. It is the only security against political slavery.

22. Besides the rights above mentioned, is the *right of opinion*. The right of private opinion, or of private judgment, is a right that cannot be interfered with without violation of the law of nature. The exercise and enjoyment of this right consist in the liberty of a man to act agreeably to his religious opinion; and in the liberty of political opinion, the liberty of every person to express and publish his opinions on all subjects relative to the government. Among the "unalienable rights" with which men are created, is *religious liberty*. This liberty has been denominated "the liberty of conscience," and "the rights of conscience." It is defined to be, "the liberty which a man has of discussing and maintaining his religious opinions, and of worshipping God in that way and manner, which he believes in his conscience to be most acceptable to his Maker, without being liable to any degradation, penalties or disqualifications, civil or political." The liberty of speech and of the press, and the liberty of conscience, are enjoyed in the United States to their full extent. But this liberty does not imply that a person may so *act* as to violate the rights of others, or to disturb the good order of society.

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erty? For what is it valuable? 22. In what consists the right of opinion?

## CHAPTER III.

*Of Laws.—The Law of Nature—Law of Revelation—Municipal Law—Law of Nations.*

23. LAW, in its most general and comprehensive sense, signifies a rule of action; and is applied indiscriminately to all kinds of action, whether animate or inanimate, rational or irrational. Thus we say, the laws of motion, of gravitation, of optics, of mechanics, as well as the laws of nature and of nations. And it is a rule prescribed by some superior, and which the inferior is bound to obey. In a more confined sense, it denotes the rules of human action or conduct: that is, the precepts by which man, the noblest of all sublunary beings, a creature endowed with both reason and free will, is commanded to make use of these faculties in the general regulation of his behavior.

24. Man, considered as a creature, must necessarily be subject to the laws of his Creator; for he is entirely a dependent being. A being independent of any other, has no rule to observe but such as he prescribes to himself: but a state of dependence obliges the inferior to take the will of him on whom he depends as the rule of his conduct, in all those points in which his dependence consists.

25. As man is dependent on his Maker for every thing, he should in all points conform to his Maker's will. This will of his Maker is called the *law of nature*. For God, when he created man, and endued him with free will, laid down certain immutable laws of human nature, by which that free will was in some degree regulated and restrained, and gave him also the faculty of reason to discover the meaning of these laws. These laws are founded in those relations of justice that existed in the nature of things.

23. What is *law*, in a general sense? In a more confined sense?

24. To what laws is man subject? 25. What is meant by the *law*

26. These are the eternal and unchangeable laws of good and evil to which the Creator himself conforms; and which he has enabled human reason to discover, so far as they are necessary for the conduct of human actions. Among the principles of these laws are the following: That we should live honestly, should hurt nobody, and should render to every one his due. And in order to prompt men to pursue the rule of right, the Creator has been pleased to make their happiness depend on the practice of this rule. This law of nature is superior to all other laws. It is binding in all countries, and at all times; and no human laws which are contrary to it, are of any validity.

27. If man's reason were always, as before his transgression, clear and perfect, and unclouded by prejudice, he would need no other guide: but his moral faculties having been impaired, Divine Providence, in compassion to the frailty, imperfection and blindness of human reason, has been pleased to discover and enforce his laws by immediate and direct revelation. The doctrines thus delivered are called the *revealed* or *divine law*, and are found in the Holy Scriptures. These precepts agree with the original law of nature. Both originate from the same source, are of equal obligation, and tend alike to promote the good of mankind.

28. Upon these two foundations, the law of nature and the law of revelation, all human laws depend: that is to say, no human laws should be suffered to contradict these. If any human law should enjoin us to do any thing that is forbidden by the natural or divine law, we are bound to transgress that human law. But in regard to matters which are neither commanded nor forbidden by those superior laws, a human legislature may make an action unlawful which before was not so. If the congress of the United States should pass a law, prohibiting the importa-

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*of nature?* 26. What are some of the principles of the law of nature? What is the extent of its obligation? 27. What is the *revealed* or *divine law*? With what other law does it agree? To what do the laws of nature and of revelation tend? 28. On what

tion of a certain commodity from a foreign country, the importation of such commodity would be an unlawful act, although in itself not unlawful, being neither commanded nor forbidden by a superior law.

29. *Municipal* or *civil law*, as defined by Blackstone, is a rule by which particular districts, communities or nations are governed; a rule of civil conduct prescribed by the supreme power of a state, commanding what is right, and prohibiting what is wrong. *Municipal*, derived from a Latin word, had reference to the particular customs of one single *municipium* or free town; yet it is with sufficient propriety applied to a state or nation which is governed by the same laws and customs.

30. But the definition of municipal law, as given by the celebrated English commentator, is not strictly correct when applied to municipal law in a free government, where absolute and unlimited power is not committed to any one of its organs. A discriminating American author gives the following as a more accurate definition: "Municipal law is a rule of civil conduct prescribed by a competent authority in the state, enjoining what ought to be done, and prohibiting what ought not to be done."

31. Chancellor Kent, in his commentaries on American law, observes: "The principle in the English government, that the parliament is omnipotent, does not prevail in the United States; though, if there be no constitutional objection to a statute, it is with us as absolute and uncontrollable as laws flowing from the sovereign power under any other form of government. But in this, and in all other countries, where there is a written constitution designating the powers and duties of the legislative, as well as of the other departments of the government, an act of the legislature may be void as being against the constitution."

How do human laws depend for their validity? 29. How is *municipal* or *civil* law defined? 30. What other definition is given to it? 31. What difference in the nature of the English and United States' governments, renders this distinction necessary as applied to the



32. As it is impossible for the whole race of mankind to be united in one great society, they must necessarily divide into many, and form separate states and nations, entirely independent of each other, and yet liable to mutual intercourse. Hence arises another kind of law, called the *law of nations*. This law is defined to be "the science of the law subsisting between nations and states, and of the obligations that flow from it." It is properly divided into three kinds: First, the necessary or internal law of nations; secondly, the conventional; and thirdly, the customary law of nations.

33. The *internal law of nations* is the law of nature applied to nations or states as moral persons. This law is called *necessary*, because nations are absolutely obliged to observe it. It is called *internal*, as it is obligatory in point of conscience. It is also termed the *natural law of nations*. The law of nature as applied to nations, as well as when applied to individuals, aims at the general good of mankind. It requires them to do for others what their necessities demand, and what they are capable of doing, without neglecting the duties they owe to themselves. So far as the law of nations is founded on the principles of natural law, it is equally binding in every age, and upon all mankind.

34. There are, however, some cases in which the law of nature is not applied to states as to individuals, as the subjects are different from each other. Individual members of a community are associated for their mutual benefit, under laws by which they agree to be governed. But as nations are independent, each is the sole judge of its rights, of the violation of these rights by others, and of the mode of redress. In case a dispute arises between two nations, no other is permitted to impose constraint on either party. Each has the liberty of judging what its duty requires.

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respective governments? 32. What is understood by the *law of nations*? Whence does it arise? 33. What is the *internal law of nations*? Why is it called necessary? Why *internal*? What are the nature and objects of this law? 34. Why is not the law of nature applied, in all cases, to nations as to individuals? 35. How

35. Obligation is distinguished into internal and external. It is *internal*, as it binds the conscience, and comprehends the rule of duty: it is *external*, as it is considered relatively to other men, and as some right flows from it. External obligation is divided into perfect and imperfect, as is also the right produced by such obligation. The *perfect obligation* is that which produces a right to constrain him on whom the obligation rests, to fulfil it; the *imperfect* gives only a right to demand. The obligations and rights of nations are therefore *imperfect*: each has the liberty of judging what its duty requires, and of doing as it chooses, without being obliged by another to do otherwise.

36. The law of nations is *conventional*, when it is established by treaties, leagues or agreements. A *treaty* is a bargain or agreement between two nations, by which they mutually promise to be governed in their conduct toward each other. This law is also called the *arbitrary law of nations*. It is fully obligatory on the contracting parties, so far as it does not violate the rights of others, or the duties which each owes to itself.

37. The *customary law of nations* is founded on a tacit consent of those nations that have observed it with respect to each other, and is mutually binding on all who have adopted it, until they expressly declare that they will not adhere to it. No custom, however, though it may have been established by long and universal usage, is of any force, if its observance requires the violation of a natural law; and such custom should be abandoned.

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is obligation distinguished? How is it *internal*? and how *external*? What is *perfect* obligation? and what *imperfect*? 36. When is the law of nations *conventional*? Why is it called *arbitrary*? What is a *treaty*? 37. What is the *customary law of nations*?

## CHAPTER IV.

*Of the different Forms of Government.*

38. GOVERNMENT, in a political sense, is that form of fundamental rules and principles by which a state or nation is governed, or by which the members of a body politic are to regulate their social actions. By government is also meant the administration of public affairs, according to established constitutions laws and usages.

39. The object of government is to secure to the members of a community the enjoyment of their natural rights. As every government is designed to promote the happiness and well being of its citizens, that government must be the best which conduces most to this end. Governments, good or bad, have existed in all ages.

40. The most common forms of government are the following:

(1.) A *despotism*: in which arbitrary power is exercised by one man. *Despot* is a word of Greek origin, signifying *master*, or *lord*. At a later period, it became an honorary title, given by the Greek emperors to their sons and sons-in-law, when governors of provinces. At present it means an absolute ruler, as the emperor of Russia. In a narrower sense, it conveys the idea of tyranny. *Tyrant*, also, is of Greek origin, and has nearly the same meaning as *despot*, signifying *king*, or absolute ruler. These words had not originally the bad signification which is now attached to them. But as the possessor of uncontrolled power usually abuses it, they came at length to signify abuser of power.

41. Turkey and Russia are despotic in a high degree. In Turkey, the sultan has unlimited control over the property and lives of his subjects, especially the highest officers of state, whom he can remove or put to death at

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38. What is the meaning of *government*? 39. What is its object?  
40. What is a *despotism*? What is the origin of the words *despot*  
and *tyrant*? 41. What power does the sultan possess? What is

his will. He makes laws without being himself subject to them. He is restrained only by the Koran and the fear of rebellion. The *Koran* is the bible of the Mahometans, containing the pretended revelations of their prophet. The people have no rights. Such is their ignorance, that they do not seem to know that they could be in a better condition.

42. (2.) An *aristocracy*; in which the supreme power is exercised by privileged classes, or in which they are allowed a disproportionate share. When tyranny is in the hands of a few, it is called an *oligarchy*, which is by some thought to be the worst of all governments.

43. (3.) A *monarchy*; which is a form of government in which the supreme power is lodged in the hands of a single person. Such a state is usually called a kingdom, or an empire. This name is generally given to a large state only. But it is sometimes applied to a state or kingdom in which the supreme magistrate is limited by a constitution or laws. Hence we speak of *despotic* or *absolute monarchies*, and of *limited* or *mixed monarchies*. Of the latter class are Great Britain and France.

44. In Great Britain, the power is lodged in the hands of a king, nobles, and a body representing in some degree the rights and interests of the great body of the people. The nobility are persons who enjoy a rank above the common people. They claim the highest civil honors and privileges, often by no other right than the right of birth; and, with the archbishops and bishops, they constitute the house of *lords*. The house of *commons*, the representative branch of the legislature, consists of the representatives of cities, boroughs and counties, and are chosen by men who possess the property or qualifications required by law. These two branches of the legislature are called the *parliament*.

the *Koran*? The condition of the people? 42. What is an *aristocracy*? 43. What is a *monarchy*? What different kinds of monarchies are there? 44. In what bodies are the powers of government lodged in Great Britain? How is the parliament constituted?

45. In France, the executive power belongs to the king. He is commander of the sea and land forces; he declares war, and makes all appointments. The legislative power rests in the king, the chamber of peers, and the chamber of deputies. The king proposes the laws. The peers are nominated by the king; and their dignity was formerly either granted for life, or made hereditary, at his pleasure. But since the revolution of 1830, the hereditary quality of the French peerage has been abolished. The deputies are elected by the electoral colleges; the ministers of state may be members of either chamber.

46. (4.) A *republic*, or *commonwealth*, the last form of government which shall be here noticed, is a state in which the sovereign power is lodged in representatives elected by the the people. Such is the government of the United States. The democracies of Greece are often called republics. A *democracy*, however, is a government in which the people meet in one assembly, and enact and execute the laws. But this can be done only in a very small community. Our government is therefore a *representative republic*, because the people, instead of enacting laws in person, elect a small number to represent them. But as political power is retained in the hands of the people, our government may with some propriety be called a democracy.

47. From the description here given of a mixed monarchy and a representative republic, these two forms of government may appear in a considerable degree similar. But though the king may have no greater power in making laws than the president of the United States, he obtains his power by hereditary right, or right by birth, independent of the suffrages of the people, and often contrary to their wishes. So also with regard to the higher branch of the legislature: its members hold their offices, either by right of birth, or by appointment of the

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45. By what bodies in France? How is the legislature constituted?  
 46. What is a *republic*? A *democracy*? What kind of a government is that of the United States? 47. Wherein consists the dif-

king. And although the lower branch is elective, such have been the qualifications required of the electors, as to throw the legislative power virtually into the hands of the more favored classes.

48. In France, in a population of 32,000,000, there were in 1830, about 215,000 electors; no person being allowed to vote unless he possessed property on which he paid 200 francs of direct taxes; nor to be elected a representative, unless his property were subject to a tax of 500 francs.

49. Similar restrictions formerly existed in Great Britain, where the elective franchise was limited to the freeholders. The land being owned by a few, and cultivated by tenants, the election depended on the richest families. Besides the clergy, who, (in 1822,) possessed about six thousand estates, and the corporations, whose possessions might be reckoned at an equal number, there were in England but about 20,000 landholders, among a population of 13,000,000. The English law which gives to the eldest son all the real estate, is itself sufficient to keep together large masses of landed property. In 1786, there were, 250,000 land proprietors.

50. Let this unjust distinction between the rich and poor, has been in a great degree abolished in England. By an act of reform passed in 1832, the elective franchise was much extended; so that it is at present enjoyed to nearly the same extent as in the United States. Such has been the progress of republican principles among the governments of Europe, as to cause, in many of them, important changes in favor of the rights of the people.

51. Some writers do not allow more than three regular forms of government: the first, when the sovereign power is lodged in an aggregate assembly, consisting of all the members of a community, which is called a *democracy*; the second, when it is lodged in a council of select mem-

ference between mixed governments and representative republics?

48. To what degree is the elective franchise restricted in France?

49. How was it formerly restricted in England? From what causes?

50. When was it extended? To what extent is it at present enjoyed?

51. To how many kinds may the different forms of gov-

bers, and then it is styled an *aristocracy*; and third, when it is entrusted in the hands of a single person, and then it takes the name of a *monarchy*. All other kinds, they say, may be reduced to these three.

52. In limited or mixed monarchies, there is usually a charter or constitution. A *constitution* is the fundamental law of a state, whether it be a written instrument of a certain date, like that of the United States, or an aggregate of laws and usages which have been formed in the course of ages, like the English constitution. In France it is called a *charter*. In Great Britain it is called a *constitution*; but it is not *written*.

53. The constitution of the United States was established by the people for their own regulation. It prescribes the duties and powers of officers who may be chosen to make and administer the laws. All laws enacted by the representatives of the people, must be in conformity to the constitution, which is the foundation of such laws, or they are not binding upon the people. The constitution restrains our rulers, and secures to every citizen his rights. It is also essential in assigning to each branch of the government its powers and limits. It is a *representative constitution*; and as it was formed and adopted by the people, they alone have the power to amend and alter it whenever it shall be found defective. This, however, can be done in such manner only as the constitution prescribes.

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ernment be reduced? 52. In what governments is there a constitution? 53. By whom, and for what purpose, was the constitution of the United States established? Who have the power to amend it?

## CHAPTER V.

*Of Sovereignty—and of Political and Civil Powers in a Government.*

54. By *sovereignty* is meant supremacy, or supreme, unlimited power. When applied to a state or nation, it means only independence. A sovereign state is a state or nation that possesses the right to make its own laws, and the right to make war and treaties with other nations. But the word sovereignty is also applied to the internal government of a state. The sovereign power of a state is that which is superior to all other power within the state. Thus, in a despotism, sovereignty is said to reside in the king, or supreme ruler, who is called the *sovereign*. In a democracy, where the people govern themselves, the people are called sovereign.

55. It was anciently believed, almost universally, that sovereignty was derived by kings immediately from God; and that, when a throne became vacant, the right of sovereignty returned to the original source, to be again conferred on the immediate successor. It was held that, by what means soever the throne was obtained, these were the occasions on which God bestowed the sovereignty on the prince. The more orthodox opinion now is, that the right is hereditary; and that, on the death of a prince, the right of sovereignty passes to his lawful heir. But this opinion of the "divine right of kings," has given way, in a great measure, to the more rational doctrine, that the right of sovereignty is derived from the civil compact, the people being considered the legitimate source of all power.

56. Strictly speaking, however, it is in a state of absolute despotism only, where all the powers of government are united in a single person or aristocratic body, that

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54. What is meant by *sovereignty*? 55. How was it anciently believed that the right of sovereignty was derived? To whom does political power properly belong? 56. In what form of gov-



unlimited sovereignty, or supreme power, is to be found. Where any degree of liberty is enjoyed, the powers of government are delegated to distinct organs; and the several functionaries are in some way held accountable for the due exercise of their powers.

57. In the English government, the legislature or parliament has been considered as possessing supreme power, because legislation is supposed to be the greatest act of superiority that can be exercised by one being over another. It is deemed requisite to the very essence of law, that it be made by a supreme power. But it will appear on examination, that such power is not possessed by parliament. The members of the house of commons are elective, and are accountable to the people, at whose will they hold their offices. And the power of the other house, as well as the power of the king, in most of his prerogatives, is held in check by the popular branch of the legislature.

58. By the constitution of the United States, the different powers are entrusted to different organs, and are duly defined and limited. Every branch of the government is accountable to some tribunal. The legislature and the executive are accountable to the people at their elections. Executive officers and judges are liable to impeachment and removal. Nor have the people, from whom all power is derived, retained to themselves that absolute and unlimited sovereignty, which, it is declared, resides somewhere in every government, and is alike in all countries. And yet, limited as the powers of this government are, they have been found competent to the great object of all civil institutions, the happiness of the people.

59. A proper distribution of power, and a due distinction between the civil and political laws in a government, are of the first importance. From the distinction made,

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ernment does unlimited sovereignty reside? 57. Why may not supreme power, or sovereignty, be said to exist in the English government? 58. How are the powers of government restricted in the United States? To whom are the different branches ac-

in a preceding chapter, between political and civil rights and liberty, it will be readily understood, that by *political laws* are meant the laws of the constitution, by which a state or body politic is organized and governed; that is, the laws which govern those who are vested with the power to make laws and administer the government. "The laws of the constitution, the political laws," as a writer observes, "are to those entrusted with the powers of government, what the laws made by the government are to a court of judicature." A judge in the discharge of his duties, is bound by the civil law: so are legislatures and other bodies, who are entrusted with the powers of government, bound by the political law or constitution, as the supreme law.

60. In absolute or despotic governments, there are no political laws binding on those who exercise the powers of government. The ruler arrogates to himself all powers, political and civil. The laws he makes do not relate to his own conduct; and he alters or repeals them at his will. The principal rule by which a ruler, in such a government, is regulated in the exercise of political power, are some customs or usages, which the people regard as more sacred than the authority of the prince, and which he cannot violate without exciting the indignation of his subjects. Yet, as he is subject to no positive laws or regulations, the people enjoy no political rights.

61. In a democracy, each citizen has an equal voice in passing all laws, whether of a civil or political nature, as well as in appointing those who administer the laws. The consequence is, that the laws are liable to frequent alterations, according to the fluctuations of popular passions and prejudice. As all laws are enacted by the same body, there is no distinction of constitutional and unconstitutional law: the last law on every subject is always constitutional, and it must be so considered by every one in the civil administration. The people under this form of govern-

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countable? 59. Wherein consists the difference between political and civil laws? 60. By what rule, principally, are rulers in despotic governments regulated? 61. How are the political and civil

ment are liable to suffer great evils. The majority often oppress the minority with unjust laws, especially when measures are adopted in the violence of party spirit.

62. In mixed governments, also, legislative bodies possess the civil as well as political powers of legislation. They have the same power to make or alter a law that relates to the constitution, as they have to make or alter a law that relates to the civil state. Their laws cannot therefore be adjudged unconstitutional.

63. In a representative form of government, the political rights of the people, and the civil powers of the government, are exercised separately by those to whom they are severally reserved or delegated. The government of the United States furnishes an example of the superiority of this form over any other. It is believed that no other people enjoy equal security of civil liberties. Their political power and liberty are greater than under a mixed government; and though they are less than in a democracy, they are not so liable to be affected by sudden alterations of the fundamental laws of the government. The constitution effectually guards itself against frequent or needless changes through popular excitement, which are incident to a democracy, as will appear by a reference to that article of the constitution which provides for its amendment.

64. With equal effect does the constitution prevent that confusion of powers which exists in both a democracy and a mixed monarchy. In the ancient republics of Greece and Rome, every freeman was a member of the legislature, and gave his vote in the assembly of the people. This blending the political with the civil power, proved the source of great evils in those democracies. Against these evils, that form of government which has been adopted by the people of the United States, provides an effectual safeguard. The power of adopting and

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powers of government exercised in a democracy? 62. How are these powers exercised in mixed governments? 63. How in a representative government? What is the advantage of this division of powers? 64. In what manner was the government admin-

amending their constitution, of electing and controlling the officers of the government, is exercised by the people in their *political* capacity; while the *civil administration* of the government is entrusted to their representatives, and others appointed for that purpose.

65. The inconveniences that must attend the exercise of the power of legislation by a body composed of the whole people, may be easily conceived. An assemblage so numerous, and consisting of men governed by so great a variety of passions and interests, would be incapable of discussing affairs; disorder and confusion would prevail; and measures would be adopted without that calm and dispassionate deliberation which the public good requires, and which may be had in a representative assembly. To this is to be attributed that fluctuation of measures, and that instability of government, for which those ancient republics were distinguished.

66. To remedy these and other evils incident to a pure democracy, it has been proposed to limit the right of suffrage. None, it is urged, should be allowed to participate in the government, who do not possess a certain amount of property, or such other qualifications as might be required, or as are not possessed by the people generally. But such a restriction of this right would destroy that equality which is essential to a republic, and change the government into a species of aristocracy.

67. Happily, for the cause of free principles, the objections which have hitherto been urged against popular governments, have been removed, in a great measure, by that improvement upon a democracy which has been carried into the government of these United States. This improvement consists principally in the separation of the political and civil powers of government; and in the

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istered in Greece and Rome? 65. Wherein consists the advantage of a representative legislative assembly, over one that is composed of the people at large? 66. What has been proposed as a remedy for the evils incident to a democracy? What is the objection to this proposition? 67. In what consist the modern improvements in free governments?

division of the civil power into legislative, executive, and judicial branches, in defining their respective powers, and in confining each within its own appropriate sphere of action. The benefits of this system have been satisfactorily tested by the people of the United States. This form of government is justly regarded as a model for other nations, and its adoption constitutes an era in the history and science of government.

## PART SECOND.

### HISTORY OF THE COLONIES—AFTERWARDS INDEPENDENT STATES—FROM THEIR FIRST SETTLEMENT TO THE ADOPTION OF THE CONSTITUTION.

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#### CHAPTER I.

##### *Discovery of America and Settlement of the Colonies.*

68. A BRIEF history of the colonies, of their settlements and political institutions, is here deemed useful, especially to young persons. A recital of the sacrifices which were made to secure the independance of these states, cannot fail to inspire youth with sentiments of genuine patriotism; while a knowledge of the government of the colonies, and of the changes effected in them from time to time, will enable them the better to understand the nature and objects of the constitution.

69. IN 1492, America was discovered by Christopher Columbus; an expedition having been fitted out for that purpose by the Spanish government, at his earnest solicitations. His discovery, however, was confined to the West Indies. The English were the first people that discovered the continent of America. This discovery was made in the year 1497, by Giovanni Cabot and his son Sebastian, who were commissioned by Henry VII. to sail in quest of new countries.

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69. By whom, and when, was America discovered? 70. When

70. Of the thirteen colonies whose delegates signed the Declaration of Independence, all but Georgia were settled in the seventeenth century. A *colony* is a settlement of persons gone from a country to inhabit some distant place, but who remain subject to the parent country. With few exceptions, the colonists were Englishmen. The settlements were chiefly made at a time of great political excitement in the parent country, caused by encroachments of the crown upon the liberties of the people. Multitudes annually fled hither to find a refuge from oppression. The attempt on the part of the government, to enforce conformity to the established church, also brought many to this country, where they might enjoy freedom of conscience in matters of religion.

71. In 1606, two companies of merchants and others were incorporated under the names of the *London company*, and the *Plymouth company*, with the exclusive right of settling and trading within their respective limits. In 1607, the London company sent to Virginia a colony of 100 men, which, in consequence of war with the natives, scarcity of food, and disease, was reduced in a few months to 38. In October, 1609, the number had been increased by new colonists to 500; but a famine reduced them in about six months to 60. In 1613, the land which had before been held in common, was distributed to each individual.

72. The supreme government of the colonies, on their first establishment, was vested in a council which resided in England, and was nominated by the king; the subordinate jurisdiction, in a council which was to reside in America, also to be named by the king, and to act in conformity to his instructions. This charter being found inconvenient, a new one was granted by James, enlarging the colony, abolishing the council in Virginia, and vesting the government in one residing in London.

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were the thirteen colonies settled? By what people? What is a *colony*? 71. When was the first colony planted in Virginia? By what company? 72. In what bodies was the government of the colonies

73. In 1619, a great change was effected in the government of the colony. A general assembly, the first that was held in Virginia, was called by the governor. Eleven boroughs sent representatives to the convention. The supreme authority was divided between the governor, a council of state appointed by the company in England, and a general assembly elected by the people with the power to enact laws.

74. In 1622, 347 men, women and children, were massacred by the Indians; an Indian war followed, which reduced the number of settlements from eighty to eight. It may here be remarked, that this disaster, and the many that followed, together with the settled hostility of the Indians which afterwards subsisted, were doubtless owing to the imprudence of the first settlers, rather than to the bad disposition of the natives.

75. In 1624, the displeasure of James having been excited by the change that had been made in the government of the colony, the charter was declared forfeit, and the company dissolved. A *charter* is a writing that grants privileges or rights to the subjects of a government.

76. The Plymouth company, which had the exclusive right to trade and settle in North Virginia, did nothing effectual towards colonizing their territory. But in 1620, a number of Puritans embarked on a voyage with a design of settlement on the Hudson. But by accident, as some suppose, they were landed on Cape Cod, within the limits of the Plymouth company: or, as others think, by the treachery of the Dutch, who themselves contemplated settling on the Hudson, they were, against their intention, compelled to land on the shores of Cape Cod. *Puritans* was a name given to those who dissented from the established church, because they wished for a purer form

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vested, on their first establishment? 73. What change was effected in 1619? 74. What disaster befel the colonists in 1622? 75. When, and for what cause, was the charter of the Virginia colony dissolved? What is a *charter*? 76. Where, and in what year, did the Plymouth company make their first settlement? What is the



of discipline and worship; as many of the ancient forms and ceremonies of the Romish church were still continued.

77. Not having contemplated any plantation at this place, they had not obtained any charter from the company. Destitute of any right to the soil, and without any powers of government, on the 11th of November, before they landed, they drew up and signed a compact, in which, after acknowledging themselves to be subjects of the crown of England, they declared as follows: "Having undertaken, for the glory of God, and the advancement of the christian faith, and the honor of our king and country, a voyage to plant the first colony in the northern parts of Virginia, we do, by these presents, solemnly and mutually in the presence of God and of one another, covenant and combine ourselves together into a civil body politic, for our better ordering and preservation, and furtherance of the ends aforesaid; and by virtue hereof do enact, constitute and frame such just and equal laws, ordinances, acts, constitutions, and offices, from time to time, as shall be thought most meet and convenient for the general good of the colony; unto which we promise all due submission and obedience." This was the earliest American constitution, and was signed by 41 persons. It was in substance a pure democracy.

78. The company, including women and children, amounted to 101. They proceeded to examine the coast, and finally determined to settle in a place called New Plymouth. Exhausted by the fatigues of the sea, and suffering from a want of suitable provisions and shelter, nearly one half of their number died within four months after their landing. They continued for ten years to hold their goods and property in common, when they obtained from the company a grant of the land which they had before held only by occupancy. At this time their number did not exceed three hundred. For many

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meaning of *Puritans*? 77. What was the character of the government which they adopted on landing? 78. Where did they settle?

years they continued a mere voluntary association, governed by laws and magistrates formed and chosen by themselves, until they were incorporated with Massachusetts, in 1692.

79. In 1623, the Massachusetts colony was settled by a company incorporated by royal charter, the land having been previously purchased from the Plymouth company. In 1630, the government of the colony was transferred to Massachusetts, by a vote of the company. A few years later, the freemen adopted the plan of acting by delegates or representatives, and the charter of a trading company was converted into the constitution of a commonwealth. This unauthorized assumption of power, as well as their religious principles, rendered the Puritans obnoxious to the court party at home, and led the Plymouth company to resign their charter to the king; and Massachusetts, like Virginia, was taken into royal hands. But such was the disturbed state of England, that these distant and insignificant colonies attracted little notice, and were left to grow up in habits of self-government, their numbers at the same time increasing by emigrations of such as were unsuccessful in the civil strifes at home. The persecuted Puritans fled to New England; the Catholics to Maryland; and the defeated royalists to Virginia.

80. New York was settled by the Dutch in 1614, and was held by them fifty years. It was, however, claimed by England, having been discovered by Henry Hudson, in 1608, who entered the bay of New York, and sailed up the river to latitude 43 degrees north. He did not attempt to land and form a settlement, contenting himself with claiming the country for his sovereign, James I., by right of discovery. The English asserted that Hudson was employed by their government, and that he sold the country to the Dutch without authority. The Dutch maintained that he was in the service of the Dutch East

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How were they governed? How long? 79. When was the Massachusetts colony settled? What plan of government was adopted in Massachusetts? 80. When was New York settled? By whom? By whom was it discovered? When was it occupied by the English?

India company at the time, and made their settlements without interruption for many years. In 1664, the colony was occupied by the English; and the territory now comprising New York, New Jersey Pennsylvania, Delaware, and a part of Connecticut, was granted by Charles II. to his brother, the Duke of York.

81. New Jersey was settled by the Dutch, in 1624, and occupied by the English in 1664. New Hampshire was first settled in 1623, at Andover and Portsmouth. Delaware was settled by the Dutch in 1627, and occupied by the English in 1664. Some Swedes settled here in 1638, but they were conquered by the Dutch, and most of them left the country. Maine was settled in 1630, and united with Massachusetts in 1677. Maryland was settled in 1633, and was the first colony that was governed directly as a province of the British empire. Its founder was Sir George Calvert, a Roman Catholic nobleman. He obtained a grant of the lands from Charles I. New Haven, settled in 1637, was united with Connecticut in 1662. Connecticut was settled from Massachusetts in 1632

## CHAPTER II.

*Forms of Government—Causes of the Revolution—Commencement of Hostilities.*

82. Of the forms of government which prevailed in the colonies, there were three—the charter, the royal, and the proprietary governments. The *charter* governments were those of New England. The people were entitled to the privileges of natural born subjects. They elected their own governors and legislative assemblies, and estab-

81. When were the other colonies respectively settled? 82. What different forms of government prevailed in the colonies? What

lished courts of justice, and in some points even exceeded the powers conferred by the charters. The only limitation to their legislative power was, that their laws should not be contrary to those of England. The crown claimed the right to revoke these charters; but the colonists maintained that they were solemn compacts, and that they could not be revoked without cause. The charters were sometimes declared forfeited, or forcibly taken away; and the disputes to which this question gave rise, between the mother country and the charter governments, were one of the causes of the revolution.

83. The *royal* governments were those of Virginia, New York, and, at a later period, the Carolinas, (1728,) and the Jerseys, (1702.) In these colonies, the governor and council were appointed by the crown, and the representatives to the colonial assemblies were chosen by the colonists. The governor obeyed the instructions of the crown, and had a negative power on the proceedings of the legislature, which was composed of the council and assemblies. The judges and most of the officers were also appointed by the king, although, in many cases, paid by the colony. The arbitrary acts of the governors, and the royal claim to an absolute veto on the acts of the assemblies, became sources of much discontent, as the exercise of these powers was virtually taking from the people the right to participate in the government.

84. The *proprietary* governments were those of Maryland, Pennsylvania, and, at first, those of the Carolinas and the Jerseys. These colonies were in the hands of proprietors or individuals, to whom grants of land had been made by the crown, with authority to establish civil governments and make laws, under certain restrictions, in favor of the crown. The proprietors had power to repeal or negative the acts of the assemblies; and the exercise of this power became a source of continual quarrels between the people and the proprietors. In 1719,

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were the *charter* governments? Where did they prevail? 83. Where were the *royal* governments established? Describe them? 84. Where were the *proprietary* governments? Describe them? 85.

the people of Carolina took the government into their own hands. The governor, council and assembly, were all elected by the people. A declaration of independence was published, setting forth the causes of their renunciation of the former government, and signed by all the members of the new government. The oldest laws of the Virginia assembly, (1624,) comprise a declaration defining the power of the governor and the assembly, and asserting the privileges of the people in regard to taxes and personal services.

85. At an early period in the existence of the New England colonies, (1643,) a confederation was formed between them for mutual offence and defence, leaving to each colony its own government, while the common affairs of the confederacy were managed by a congress, consisting of two commissioners from each colony.

86. As early as the seventeenth century, the question of taxation became a subject of common interest in the colonies. The colonists disputed the right of parliament to tax the colonies. It was believed that the power of the British government extended only to the regulation of trade. Having surmounted the hardships and difficulties which attended their first establishment, and having made considerable advances in commerce and manufactures, the freedom of commerce which they had so long enjoyed began to be interrupted. Their trade was restricted by the imposition of unjust taxes for the benefit of the mother country.

87. By the act of 1651, none but British or colonial vessels were allowed to participate in the export and import trade. Another act, passed in 1660, enacted that certain articles should not be exported directly from the colonies to any foreign country; thus compelling the colonists to sell their produce in no other than British markets. It was next provided, (in 1663,) that they should buy such foreign articles as they needed entirely

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What took place in the government of the N. E. colonies in 1643? 86. What great question arose in the 17th century? 87. What acts were passed in 1651 and 1663? 88. What acts were passed in

of the merchants and manufacturers of England. Duties were even imposed on certain colonial products transported from one colony to another.

88. All attempts to manufacture such articles as the mother country could provide, were discouraged. In 1699, it was enacted, that no wool, yarn, or woollen manufactures should be exported from the American colonies; and, in 1750, every slitting or rolling mill, plating forge to work with a tilt hammer, or other machinery, was declared to be a common nuisance, which the governors were directed to cause to be abated. It is true, however, that many of these and similar acts of parliament, were openly disobeyed or secretly evaded.

89. Such were some of the features of the policy of the mother country, and the causes of irritation and discontent in the colonies. Many of the acts for regulating the trade of the colonies, had been unwillingly submitted to, as violations of their rights, or secretly evaded or openly disregarded, for many years, when measures were at length taken by the ministry, not only to enforce such acts, but to raise a revenue in America by internal taxation.

90. In 1765, the obnoxious stamp act was passed, by which obligations in writing in daily use were to be null and void, unless they were executed on a paper or parchment stamped with a specific duty. Newspapers, almanacs and pamphlets, printed in America, were to be made to contribute to the British treasury. About the same time, a bill was brought in authorizing the quartering of troops in the colonies.

91. As might have been expected, the colonists were unwilling to submit to these acts and measures; and a general congress, the first of the kind, was held at New York, which adopted a declaration of rights and grievances, asserting taxation by themselves, and trial by jury, to be inherent rights of the British subjects in the colo-

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1699 and 1750? 89. What measures were adopted by the ministry?

90. What act was passed in 1765? What were its provisions?

91. How did the colonists regard this act? 92. When was the act

nies. The colonial assemblies adopted similar measures; meetings of the people were held; and the whole country was set in a flame.

92. So violent was the opposition to the stamp act, that on the first of November, the day on which the act was to have taken effect, neither stamps nor officers were to be found! In this state of affairs, the act was repealed, (March, 1766.) At the same time, by a declaratory act, parliament asserted the right to bind the colonies in all cases whatsoever. In 1767, a bill was passed imposing a duty on glass, paper, paints and tea, imported into the colonies; and troops were quartered in Boston to enforce obedience.

93. But combinations having been formed by the Americans against the importation of those articles, the act was repealed, March, 1770, the duty on tea alone being continued. Accordingly the colonists renounced the use of that article, or obtained it from foreign countries; in consequence of which an act was passed in 1773, allowing a drawback on tea exported to America, for the purpose of rendering it cheaper, and inducing the Americans to submit to the small duty imposed upon it. Large shipments of tea were accordingly made; but in New York and Philadelphia the vessels were not allowed to land their cargoes; in Charleston it was stored, but not permitted to be offered for sale; and in Boston, after several unsuccessful attempts to prevent its being landed, a party of men, disguised as Indians, boarded the tea ships, and threw the tea overboard. This occurred December 16, 1773.

94. In the following spring, by an act of parliament, called the Boston port bill, passed March, 17, 1774, the port of Boston was closed, and the landing and shipping of goods were ordered to be discontinued. The custom house and trade, and the session of the court, were removed to Salem, and the charter altered, taking the whole

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repealed? What bill was passed in 1767? 93. How did the Americans evade the payment of the duty on tea? What remarkable event occurred in December, 1773? 94. What acts of parliament

executive government from the people, and vesting the appointment of the important officers in the crown. It was also enacted, that a person indicted for a capital offence, committed in aiding the magistrates, might be sent to Great Britain for trial.

95. In the same year, General Gage, the British commander-in-chief, and governor of Massachusetts, arrived in Boston to enforce the Bostonians into a compliance with the oppressive acts of parliament. In this crisis, the other colonies made common cause with Massachusetts. Deputies from most of the colonies met in congress at Philadelphia, September 5, 1774. Congress published a declaration of rights, protesting against the right of Great Britain to tax the colonies, or to interfere in their internal policy; with a statement of grievances, declaring the late acts of parliament to be violations of the rights of the colonists.

96. They next proceeded to interrupt all commercial intercourse with Great Britain, pledging themselves not to import or use British goods, till the acts complained of should be repealed. Addresses, petitions and remonstrances were resorted to, but all to no effect. Instead of changing its policy, the British government imposed additional restrictions upon the trade of the colonies. Preparations now began to be made for resistance. Gunpowder was manufactured, the militia was trained, and military stores were collected.

97. In April, 1775, a detachment of troops was sent to destroy the military stores collected at Concord. At Lexington, the militia were collected to oppose the incursion of the British forces. They were fired upon by the British troops, and eight men were killed. After having proceeded to Concord, and destroyed a few military stores, the troops returned, and were pursued by the Americans to Boston. Here was spilled the first blood

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were passed in 1774? 95. 96. What measure was taken to enforce a compliance with these acts? What course was pursued by the colonies in this crisis? Did the British government change its policy? 97. When and where did the first engagement take place?



in the war which severed the American colonies from Great Britain.

98. In May, 1775, a second congress met from all the states, and immediately determined to organize an army; and Washington was appointed, June 15, commander-in-chief of the colonial forces. Congress authorized the emission of two millions of dollars in bills of credit, for the redemption of which the colonies were pledged; and an appointment was made of the quota to be paid by each colony of the bills emitted. A general post office was established, and rules were framed for the government of the army. Congress also published a solemn declaration of the causes of taking up arms, an address to the king, entreating a change of measures, and an address to the people of Great Britain, requesting their aid, and admonishing them of the threatening evils of a separation.

99. At the next meeting of the same congress, rules were adopted for the regulation of the navy; a further emission of bills was authorized; and a treasury department was established. A general system of measures for resistance was now adopted throughout the colonies. General Washington had been at Cambridge at the head of an army, whose term of service expired with the year, 1775, without ammunition, and but imperfectly supplied with arms.

100. By the beginning of March, 1776, 14,000 regular troops had been enlisted, and the British were obliged to evacuate Boston, March 13. On the 10th of June, a committee was appointed by congress to prepare a declaration, "that these colonies are, and of right ought to be, free and independent states." On the 11th of June, a committee was appointed to prepare the form of a confederation between the colonies. On the 2d day of July, congress adopted the resolution of independence; and on the 4th of July, they adopted the Declaration of Independence.

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98. When did the second congress meet? What measures did congress adopt at this meeting? 99. What was done by this congress at its next meeting? What was the state of the army at the close of the year 1775? 100. What occurred in March 1776?

## CHAPTER III.

*Sketch of the War—Adoption of the Articles of Confederation—Peace—State of the Country.*

101. THE American revolution may properly be said to have been complete on the adoption of the Declaration of Independence; but it still remained to be defended by arms. The military operations which closed the year, were, the defeat of the Americans on Long Island, August 27; the capture of New York by the British forces under lord Howe, September 15; the battle of White Plains, October 28; and the battle of Trenton, December 26, in which general Washington gained a victory over the British army, capturing a large body of Hessians who were cantoned at Trenton; and soon after, January 3, 1777, the battle of Trenton, in which he gained another decisive victory over the British troops.

102. The campaign of 1777 was more favorable than that of the preceding year. Philadelphia had been taken by the British, September 27, and the Americans had been defeated on the Brandywine, September 11; also at Germantown, October 4; but the northern army were to a considerable degree successful. General Burgoyne, who commanded the British northern army, had taken possession of Ticonderoga; but, while pushing his successes southward, his progress was arrested at Saratoga, by the militia which had assembled there from various parts of New England for that purpose. These, with the regular troops, formed a respectable army, and were commanded by general Gates. After two severe actions, Burgoyne, finding himself enclosed with brave troops, surrendered to the Americans his entire army of seven

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What memorable event took place in July of this year? 101. What military operations closed the year 1776? 102. What was the campaign of 1777, compared with that of the preceding year? What noted achievement was effected by the northern army in

thousand men, on the 17th of October. Thus was cut off the communication which had been attempted to be kept up between New York and Canada.

103. When the intelligence of this reached Europe, the French government entered into treaties of amity and commerce with the United States, thus recognizing their existence as an independent nation. When the British ministry were informed that this treaty was on foot, they despatched commissioners to America to effect a reconciliation. But their offers were not accepted.

104. In the spring, a French fleet arrived, having on board about 5000 French troops, which had been sent to assist America. In June, the British army left Philadelphia, with the intention of concentrating their forces at New York. While on their march, they were attacked by general Washington at Monmouth, on the 28th of June, and repulsed with great loss.

105. Congress had hitherto consisted of delegates from thirteen independent states, with little more authority than that of advising the states to adopt certain measures. Money could not be raised without the consent of the states; which were held together by force of circumstances, congress having no power to enforce obedience. But during the heat of the revolutionary contest, men were little disposed to discuss or scrutinize such subjects; and the people confided in the wisdom of congress, and yielded to their authority.

106. But in order to give stability to the union, and to define more precisely the nature of the federal compact, and the powers of congress, the articles of confederation were agreed on by congress, November 15, 1777, and submitted to the state legislatures for ratification. The articles bear date July 6, 1778: they were ratified the same year by all the states except Delaware and Mary-

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October of this year? 103. What was done by the governments of France and Great Britain, on hearing of this event? 104. What assistance did America receive from France in the spring? What battle was fought in June? 105. In what respects was the authority of congress found deficient? 106. For what purposes, and when.

land; by the former, in 1779, and by the latter, the first of March, 1781; being nearly five years after the first action on the subject by congress. By these articles, the exclusive control of our foreign relations, the right to declare war and make peace, and the right to make requisitions of men and money, were confided to congress.

107. But the confederation was in many respects defective. It did not possess the power to carry its own constitutional measures into effect; for like all mere confederations, the decrees of the federal government operated on the states in their independent capacity, and not upon individual citizens. But perhaps the greatest defect was the want of power to provide for defraying the expenses of the government. Congress had power "to ascertain the sums necessary to be raised for the service of the United States;" and to apportion the quota to each state: but as the power was reserved to the states to lay the taxes, and prescribe the time and manner of payment; it depended upon the good will of each of the legislatures of the thirteen independent states whether, any measure of defence could be carried into operation. And, when danger from abroad was past, this confederacy was found to be incompetent to govern the country.

108. In the same year Georgia was invaded, and Savannah, its capital was taken, by the British; and in the year following, (1779,) the south became the principal theatre of war. Depredations to a great extent were committed on the coasts, and a partisan warfare was carried on in the interior; but with no decisive results. In 1780. May 12, Charleston was taken by the British; and on the 19th of October, 1781, the contest was ended by the surrender of Cornwallis, at Yorktown, to the combined American and French forces under Washington and Rochambeau.

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were the articles of confederation adopted? When were they ratified? What powers did they confer upon congress? 107. In what respects were they defective? 108. When was Georgia invaded, and Savannah taken? What was the character of the war in 1779? What occurred in 1780, and 1781? 109. When was

109. In the following year, a treaty was concluded between Holland and the United States; and after long protracted negotiations, a treaty of peace was signed September 23, 1783, by which Great Britain acknowledged the independence of the United States of America.

110. Honorably as the war resulted to the Americans, it was attended with great sacrifices. Without arms or pecuniary resources, congress was obliged to have recourse to a paper medium. During the first five years of the war, three hundred millions of dollars, in bills of credit, had been emitted; and no provisions were made for redeeming them, the states neglecting, or but partially complying with, the requisitions of congress. In 1780, these bills had depreciated to such a degree as to cease to circulate; the treasury was empty, the army unpaid, without clothing, and sometimes without food.

111. At this critical period, the French government made a grant of six millions of livres by way of subsidy, and a further sum by way of loan; and afterwards a loan of ten millions of livres was obtained from Holland. The whole amount of loans and grants made to the United States by France and Holland, was forty three millions of livres, or nearly ten millions of dollars. These supplies, with a new organization of the finance department, and the establishment of a national bank, at a later period, contributed to relieve the pressure. When peace took place, the public debt amounted to \$42,000,000, on which congress was unable to pay even the interest. The requisitions and regulations of that body were but little regarded by the states, and the country was fast approaching a state of anarchy.

112. A change in the government now became necessary as the only means likely to preserve the union; and, in 1787, a convention was held in the city of Philadel-

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the treaty of peace with Great Britain signed? 110. What embarrassment did the country endure during, and for a short time after, the war? 111. How was pecuniary relief obtained? 112. What occurred in 1787? When did the constitution take effect.

phia, to form a new and more perfect union; when the present constitution was adopted. It was subsequently ratified by the people of the several states, and went into effect in 1789.

## PART THIRD.

### OF THE GOVERNMENT OF THE UNITED STATES.

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#### CHAPTER I.

##### *Of the Nature and Objects of the Union.*

113. As has been before observed, the confederation which was adopted by congress, in 1777, was a league or treaty of alliance between sovereign and independent states. Although it was declared to be a firm league of friendship, yet its binding force depended on the good faith of each of the states, each party being the sole interpreter of the meaning of the contract, and the sole judge of its obligations; so that, in case of a violation of the contract by either of the parties, the ultimate remedy would have been a resort to the law of force, which is admitted by the law of nations to be the only final arbiter between sovereign states. The people were not citizens of the United States, but of their respective states; and they owed obedience to their respective state governments only.

114. Under the confederation, the union was merely federal, not a national, union; and the government was familiarly denominated, the federal government. The

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113. What was the nature of the confederation? 114. What was the character of the government? What is the meaning of

word *federal* is derived from the Latin word *fædus*, signifying a league or covenant. This government was destitute of executive and judicial powers, which are no less necessary in giving to a government a national character, than in forming an efficient government. It consisted only of a legislative power, the power of enacting laws: it wanted an executive power to *execute* the laws, and a judicial power to *judge* of, to expound, and to apply them.

115. Congress had no power of raising a revenue or of collecting taxes. Congress had the power of making treaties, but not the power of fulfilling them—that rested with the several states. Congress had the power of declaring war, but had not the means of maintaining a war. It had the power merely to ascertain the sum required for the public service, and to apportion it according to a prescribed rule among the several states, with a request that they should raise, and pay over to the general treasury, the amount of their respective quotas; but as an independent sovereign, each might choose or refuse, and sometimes did refuse, to comply with the requisition. Congress was authorized to borrow money, and to emit bills of credit, but had not the command of funds to pay the one, or to redeem the other. Nothing but the pressure of war, and the patriotic zeal of the citizens in a common cause, in which so much was at stake, could keep the country united.

116. When peace was restored, the imperfections of this system of government were fully developed. It was these imperfections, and the evils resulting from them, that led to the formation and adoption of a new and more effective system of national government, the nature and powers of which are briefly expressed in the preamble:

“We, the *people* of these United States”—words conveying the idea of nationality—“in order to form a more perfect *union*”—intimating the former to have been but a

*federal?* 115. Of what necessary powers was congress destitute?

116. What are the nature and objects of the union, under the



partial and imperfect union—"to establish justice, insure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity"—objects to which the confederation had proved incompetent—"do ordain and establish this constitution for the United States of America."

117. But, although there can be little difference of opinion as to the *objects* of the constitution, the *nature* of this instrument is very differently interpreted by different individuals. It has been held to be, (1.) a contract between sovereign and independent states, to establish and maintain a government for the common good of the states; (2.) a contract between each state and all the other states, for the same purpose; each state reserving to itself the right of judging of the meaning of the contract, and whether it has been kept or broken; (3.) a contract between each citizen and all other citizens of the United States, to establish and maintain a government for the good of the whole, with limited and defined powers; providing that all powers not expressly given, nor necessarily flowing from those which are so given, are reserved to the states or to the people; and that the authority of interpreting the meaning of the contract, or of expounding the powers of the government, instead of belonging to the states, resides in the government itself.

118. Without presuming to decide which of these opinions is correct, it may be proper to state, that, in this latter sense, the constitution is understood by the supreme court of the United States, which, in the last resort, is to expound the constitution, and the laws made under its authority. It is argued in favor of this opinion, that in adopting the constitution, the people of the several states, by their representatives in the state conventions, acted separately for themselves, not in the character of that sovereignty which they had entrusted to their respective state governments. And as the constitution was ratified

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present constitution? 117. What different opinions prevail as to the nature of the union? 118. What authority and what reasons

by the people of each state, in concurrence with the people of all the states, it thus become a mutual compact between all, binding upon all, and upon their respective state governments.

119. A similar view of this subject was taken by the president of the United States, in his proclamation of December, 1832, occasioned by the hostile attitude assumed by the state of South Carolina against the general government; that state having threatened to resist the execution of a law of congress which she declared to be unconstitutional, and claimed for herself, as an independent state, the right to judge of the constitutionality of the law, as well as the right to secede from the union. These rights, it was asserted, had been reserved to the states, and had never been surrendered to the general government. The opinions expressed in the proclamation referred to, were, at that time, approved by a large majority of the people of the union. A few short extracts from that document are here given :

“The people of the United States formed the constitution, acting through the state legislatures in making the compact, to meet and discuss its provisions, and acting in separate conventions when they ratified those provisions; but the terms used in its construction, show it to be a government in which the people of all the states collectively are represented. We are *one people* in the choice of the president and vice president. Here the states have no other agency than to direct the mode in which the votes shall be given. The people, then, and not the states, are represented in the executive branch.

“The constitution of the United States, then, forms a *government*, not a league; and, whether it be formed by compact between the states, or in any other manner, its character is the same. It is a government in which all the people are represented, which operates directly on the people individually, not upon the states : they retained all

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are given in support of this last opinion? 119. What further authority is here cited, in corroboration of this opinion? What are some of the reasons given in favor of it? 120. What spirit must

the power they did not grant. But each state having expressly parted with so many powers as to constitute, jointly with the other states, a single nation, cannot from that period possess any right to secede, because such secession does not break a league, but destroys the unity of a nation."

120. The most able men have differed widely on this subject; and this diversity of opinion will probably continue to exist. These different views of the national compact are therefore given to lead the mind to inquire into the nature of the union, rather than to excite a spirit of controversy, which should always be discouraged. The people of the United States are indebted for the blessings enjoyed under their admirable system of government, to that spirit of compromise and mutual concession, which prevailed so universally among the members of the body that framed the constitution. It is indeed remarkable, that an assembly of men from so wide a territory, entertaining views, and representing interests, so varied and opposite, should have agreed on a form of government which should receive the assent of so large a majority of the people. And it is more remarkable still, that any system, adopted under these circumstances, should have been found, on an experiment of almost half a century, so fully competent to all the purposes for which it was intended. May the same spirit of forbearance and good will which governed those who framed and adopted our invaluable constitution, be cherished by their descendants!

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have prevailed among the framers of the constitution? Has the constitution thus far answered its intended purpose? 121. In what

## CHAPTER II.

*Of the Legislative Power.—House of Representatives.*

121. ALL legislative powers granted in the constitution, are vested in a congress of the United States, which consists of a senate and house of representatives. The propriety of dividing the legislature into two co-ordinate branches, is obvious. It was intended, by this division, to guard against the evil consequences of hasty action by a single legislative body. The proceedings of some of the state legislatures, consisting of a single house, as well as the proceedings of congress under the confederation, had furnished examples of the ill effects of precipitate legislation. A hasty decision is not likely to be made, when a measure is liable to be arrested in its progress, and to be subjected to the critical revision of another body, in which it must pass through the same forms of deliberation before it become a law.

122. But there was another reason for this division of the national legislature. In the new constitution were combined the national and federative principles. It was proper that, when a people are incorporated into one nation, every district or territorial subdivision should have a *proportional* share in the government; and it was equally proper that each of the several members of the confederacy should have, in some respect, an *equal* voice in the public councils.

123. The house of representatives is composed of members chosen every second year, by the people of the several states. By limiting the term of office of a representative to two years, it was intended to secure a faithful and just representation of the interests of the people in the national councils. For, should a representative prove

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are the legislative, or law making, powers of the government vested? For what purpose is the legislature divided? 122. What other reason is given for this division? 123. How is the house of representatives constituted? Why is the term of office of mem-

to be incompetent, or unfaithful to his trust, he may at the end of two years be removed, and his place filled by another. Besides, the hope of a re-election, should his conduct meet the approbation of his constituents, and the fear of being displaced, should he forfeit their confidence, have a tendency to ensure a faithful performance of his duties. But if the elections were still more frequent, and the term of a representative were limited to a single year, his increased dependence on the popular favor, would probably diminish his regard for the general good.

124. Any person qualified to vote for a representative in the lowest or most numerous branch of the legislature of the state in which he resides, is entitled to vote for a representative in congress. But the qualifications of the electors, being established by the constitutions of the several states, are not uniform. In some states, the possession of a certain amount and description of property, is made a qualification. Colored persons are not allowed to vote in any state, excepting a few, in which the *property* qualification is required. In a majority of the states, however, all free white citizens, of the age of twenty-one years or upwards, having resided for a certain period of time in the state, and paid taxes thereto, are entitled to vote for representatives in the most numerous branch of the state legislature.

125. No person may be a representative unless he has attained to the age of twenty five years, and been seven years a citizen of the United States; nor unless he be an inhabitant of the state in which he is chosen. This provision, as to age and term of citizenship, is intended to prevent the election of men who have not had time to acquire that knowledge and experience, which are essential to constitute a useful and efficient representative: and, unless he be an inhabitant of the state in which he is chosen, he cannot be presumed to understand the interests he is to represent.

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bers limited to two years? 124. What qualifications entitle an elector to vote for representatives? 125. What qualifications must

126. Representatives and direct taxes are apportioned among the several states, according to their respective numbers, which are determined by adding to the whole number of free persons, (including those bound to service for a term of years, and excluding Indians not taxed,) three fifths of all other persons. By this mode of apportionment, the free citizens of the slave-holding states have a greater number of representatives than an equal number of white persons in the other states. For instance, suppose a state to contain 500,000 free persons, and 300,000 slaves: the addition of three fifths, (180,000,) of the number of slaves, to the number of free persons, makes 680,000; according to which number representatives are apportioned. But as representation and taxation go together, it was thought the free states had no just cause to complain of unequal representation, as the slave states would be liable to greater direct taxes, in proportion to their free population, than the free states. Direct national taxes, however, have seldom been laid, and probably they will not again be resorted to.

127. The enumeration of the people is made every ten years, in such manner as the state legislatures direct. Representatives are at present apportioned according to the census of 1830. *Census*, among the Romans, was used to signify the valuation of a man's estate, and the registering of himself, his age, his family and his servants. As used in the United States, it usually means only the enumeration of the people.

128. The number of representatives may not exceed one for every 30,000 inhabitants. A very numerous legislative body cannot act with the same degree of convenience and despatch as a smaller assembly. Hence the propriety of this constitutional provision. To prevent the house of representatives from becoming too large, congress has found it necessary, from time to time, as the population of the states increased, to lessen the *ratio* of

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a representative possess? 126. How are representatives and direct taxes apportioned among the states? 127. How, and how often are the people numbered? What is the meaning of *census*? 128.

representation. The present ratio is only one representative for every 47,000 inhabitants, according to the census of 1830. The number of representatives is 240. These are apportioned among the several states as follows. Maine 8; New Hampshire 5; Vermont 5; Massachusetts 12; Rhode Island 2; Connecticut 6; New York 40; New Jersey 6; Pennsylvania 28; Delaware 1; Maryland 8; Virginia 21; North Carolina 13; South Carolina 9; Georgia 9; Alabama 5; Mississippi 2; Louisiana 3; Tennessee 13; Kentucky 13; Ohio 19; Indiana 7; Illinois 3; Missouri 2. The constitution provides that each state shall have at least one representative; and, by an act of congress, every territory belonging to the United States, in which a government is established, has the right of sending a delegate to congress. Such delegate is entitled to a seat, with the right of debating, but not of voting.

129. The distribution and location of the representatives of a state, are determined by a law of the state legislature. Each state is divided into a number of districts equal to the number of its representatives; each district comprising, as nearly as may be, the number of inhabitants entitled to a representative. Sometimes, however, a district is made to embrace a population entitled to two or more representatives. A state may order the whole number of its representatives to be voted for on one ticket, throughout the state. This is the practice in a few of the states.

130. As vacancies sometimes happen in the representation from a state, by the death, resignation, or removal, of some of its representatives, it is provided by the constitution, that the executive authority of a state, in the representation of which a vacancy shall happen, shall issue a writ of election, ordering the vacancy to be filled.

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How is the number of representatives limited? Why? What is the present ratio? What the present number of representatives? How are they apportioned among the several states? 129. How are the representatives of each state distributed and located? 130. How are vacancies that happen in the house filled? 131. How are the

131. The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment. *Impeachment* is a charge or accusation preferred against a public officer for misconduct and maladministration. The house has only the power to impeach, or to make the accusation; the power to *try* impeachments belongs to the senate.

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## CHAPTER III.

### *Of the Senate of the United States.*

132. THE senate of the United States is composed of two senators from each state, chosen by the legislature thereof. Our government, as has been remarked, partakes of the national and federative character, combining the principles of *proportional* and *equal* representation. The house of representatives is constituted upon the former principle, the number of its members from each state being *in proportion* to its population; while in the senate each state is *equally* represented. Besides the reasons stated in a preceding chapter, for instituting a senate, it is said to be the result of a compromise between the large and the small states: the latter consenting to be represented in one branch of the legislature, in proportion to the number of inhabitants in each, on condition of being allowed an equal representation in the other branch.

133. The usual mode of choosing senators is by *joint* vote: that is, the members of both branches of the state legislature meet together, and vote numerically. Another mode is by a *concurrent* vote, each house voting separately, and a concurrence in its choice being required

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officers of the house chosen? Of what has it the sole power? What is an *impeachment*?

132. How is the senate composed? What principles are combined in our government? 133. What are the different modes of



by the other house. But the latter mode is not common. In cases of disagreement between the two houses, the election of senators by a concurrent vote is often attended with great difficulty; for so long as each house adheres to its decision, no election can be effected. As the constitution does not prescribe the manner in which the appointment shall be made, there is much uncertainty as to its true construction in this particular.

134. Senators are elected for six years. Political factions and popular excitements will arise in every community; and their tendency is to produce fluctuation and instability in the public councils. Sudden changes in public feeling, are usually followed by corresponding changes in legislative bodies of short duration. As much of the party feeling that prevails among the electors, is often carried by the representative into the legislative hall, frequent alterations of the laws are to be expected; and these changes are sometimes attended with great mischiefs to the community. It was deemed requisite, therefore, that a body resting on a more durable basis, should be placed as a check upon the more popular branch of the legislature. A longer term of office was required, as the means most likely to give independence and stability to the senate.

135. The senate is divided into three classes, so that the term of one third of the members expires every second year. This division and classification of the senate, by which the seats of one third only of its members are vacated every year, are calculated to secure stability to the administration of the government, and to retain a large portion of experienced members, acquainted with the general principles of national policy, and the forms and course of business.

136. If vacancies happen, by resignation or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until

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choosing senators? 134. For what term are they elected? Why is so long a term deemed requisite? 135. How is the senate divided and classified? For what purpose? 136. How are vacancies

the next meeting of the legislature, which shall then fill such vacancies.

137. The executive of a state may fill a vacancy that happens during the recess of the legislature of such state; but he cannot make the appointment constitutionally until the vacancy shall have actually occurred. So it was decided by the senate, in 1825. Mr. Lanman was a senator of the United States from the state of Connecticut. His term of service expired on the third of March. The governor of that state, having been previously notified by the president of the United States, that the senate would be convened on the fourth of March, accordingly made the appointment in February, the legislature not being in session. Upon these facts, the question was raised as to the constitutionality of the appointment, and the senate decided, 23 to 18, that, as the appointment had been made before the vacancy had occurred, Mr. Lanman was not entitled to a seat.

138. No person may be a senator, unless he has attained to the age of thirty years, and been nine years a citizen of the United States, nor unless he be an inhabitant of the state for which he shall be chosen. The superior weight and delicacy of the trusts confided to the senate, seemed to require greater age, and longer citizenship, as qualifications for a senator, than for a representative. Men elected to so responsible an office, should be of sufficient age to have acquired a thorough knowledge of the affairs of the nation; and a period of citizenship is required sufficient to form an attachment to the principles of our government.

139. The presiding officer of the senate, is the vice president of the United States. In his absence, or when he exercises the office of president of the United States, the senate chooses, from its own body, a president pro tempore. *Pro tempore* is a Latin phrase, signifying, for

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in the senate filled? 137. Can an appointment by a state executive be made *before* the vacancy actually occurs? 138. What are the qualifications required for a senator? Why are these qualifications deemed necessary? 139. Who presides in the senate? Who

the time. It here means, for the time that the vice president shall be absent from the senate. It is the duty of the president of the senate, and of the speaker of the house of representatives, to preside over, and to conduct, the proceedings and deliberations of their respective houses. All questions on which a vote is to be taken, are put to the house by the presiding officer; and he also decides all questions of order that may arise in the house over which he presides.

140. The other officers are the same in both houses. They are the following: 1st, a *chaplain*, who performs divine service. The principal business of a chaplain in a legislative body in this country is, to offer prayers before the business of the day is commenced. The salary of a chaplain to congress is \$500 a year. 2d, the *secretary of the senate*, and *clerk of the house of representatives*; each of whom is required to take an oath or affirmation to support the constitution of the United States, and another faithfully to discharge the duties of his office to the best of his knowledge and ability. They are required to give bonds, in the penal sum of \$20,000, for the faithful application of all the funds of their respective houses that shall come into their hands; which must be deposited in one of the banks in the District of Columbia, and may be paid out only by a draft on the bank in which the money is deposited. It is also their duty to furnish their respective houses with the necessary stationary; which is done by advertising, after the adjournment of each congress, in two newspapers printed in the District of Columbia, for proposals for supplying the succeeding congress with stationary. The proposal of the lowest bidder is accepted, who is required to give security for the fulfilment of his contract. And the said secretary and clerk are required to lay before the two houses, at the commencement of each session, a detailed statement of the items of the expenditure, and manner in which the

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in his absence? What does *pro tempore* signify? What are the duties of a presiding officer? 140. What are the other officers of the respective houses? What are the duties of each? Their sala-

funds of the respective houses have been applied. They receive for their compensation \$3000 a year, each; their principal clerks, \$1500 each. 3d, a *sergeant-at-arms*, who executes the commands of the presiding officer of the house. He arrests offenders, and performs such other duties as usually devolve upon a sheriff or constable attending as a peace officer at the session of a civil court. 4th, a *doorkeeper*, whose salary, and that of sergeant-at-arms, are \$1500 a year, each. 5th, an *assistant doorkeeper*, whose salary is \$1450 a year.

141. The senate possesses the sole power to try impeachments: when sitting for that purpose, its members must be on oath or affirmation. A provision in the constitution for trial by impeachment, was rendered necessary for the punishment of offences that could not be tried before ordinary courts. These offences are such as are committed by persons in public offices, and consist in misconduct and mal-administration. Should a magistrate receive money for giving an erroneous decision, he would be liable to impeachment. So also the president, or other public officer, would, for mal-conduct, be subject to impeachment. It has been decided that a member of congress is not a civil officer within the meaning of the constitution, and therefore not liable to impeachment.

142. The first proceeding in a trial of this kind, is a complaint to the house of representatives. A committee is then appointed to investigate the matter; and if the charge be well founded, a written accusation is prepared and presented to the senate, with a request to proceed to trial. The house chooses a number of its members to conduct the trial on the part of the house. The president of the senate presides when present, except when the president is tried: in such case, the chief justice presides. The same rules are observed in courts of impeachment, as in courts of common law.

143. As the power of originating the inquiry, of drawing up and presenting articles of impeachment, and of

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ries? 141. Of what has the senate sole power? Why is this kind of trial necessary? 142. Give the proceedings in a trial of this

conducting the prosecution, is more properly given to the members of the house, because they immediately represent the people; so the members of the senate are more fit to sit as *judges* on a trial of impeachment, because they are further removed from the people, and are presumed to be more free from party influence.

144. No person can be convicted on a trial by impeachment, without the concurrence of two thirds of the senators present: and judgment can extend no further than to removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under the United States; but the party convicted may, nevertheless, be indicted, tried and punished, in a justice' court.

## CHAPTER IV.

### *Of the Senate and House of Representatives.*

145. THE times, places and manner of holding elections for senators and representatives, are prescribed in each state by the legislature thereof; but congress may, at any time, by law, make or alter such regulations, except as to the places of choosing senators.

146. Congress is required, by the constitution, to assemble at least once in every year, on the first Monday in December, unless it shall, by law, appoint a different day. Congress, in pursuance of the power here given, has provided, that when, from the prevalence of contagious sickness, or from other circumstances, it would be dangerous to the health of the members to meet at the

kind? 143. For what reasons are the power to impeach, and the power to *try* impeachments, divided between the two houses? 144. What is necessary to conviction? How far does judgment extend?

145. How are the time, place and manner of holding elections for members of congress prescribed? 146. When, and how often,

place to which congress shall stand adjourned, the president of the United States may, by proclamation, convene congress at such other place as he may judge proper.

147. Each house is made the judge of the elections, returns and qualifications, of its own members. By the power granted to each house of congress to judge of the elections, returns and qualifications of its members, it was intended to preserve a pure representation. It often happens that, in consequence of some alleged irregularity or unfairness in the election or return of a member, his seat is claimed by the opposing candidate. In such case, the house institutes an investigation, and decides which of the candidates is entitled to the seat.

148. A majority of each house shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide. *Quorum* means such a number of any officers as is sufficient to transact business. Thus the senate consists of 48 members, 25 of whom, a *quorum*, may act.

149. Each house may punish its members for disorderly behavior, and, with the concurrence of two thirds, may expel a member. A member may be expelled for a high misdemeanor, though committed elsewhere than in the presence of the house to which he belongs. In determining on expulsion, it is not necessary to adhere to those forms and rules of evidence which are observed in courts of law. From the power to punish its members for disorderly behavior, congress has inferred and exercised the power of punishing for contempt other persons than its own members.

150. Each house is required to keep a journal of its proceedings, and, from time to time, to publish the same,

must congress assemble? 147. For what purpose is congress authorized to judge of the elections, &c. of its members? 148. What constitutes a quorum in each house? What is meant by *quorum*? 149. To what does the power of each house to punish and expel members extend? 150. What does the constitution require respect-

excepting such parts as may, in its judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one fifth of those present, be entered on the journal. Besides the number of copies of the public journals usually printed, there are printed several hundred copies, of which twenty-five copies are to be deposited in the library of congress, for the use of members of congress during any session, and all other persons authorized by law to use the books in the library. And as many other copies are transmitted to the executives of the several states and territories, as shall be sufficient to furnish one copy to each branch of every state and territorial legislature, and one copy to each college and incorporated historical society in each state; and the residue are deposited in the library of the United States, subject to the future disposal of congress.

151. The printing of congress, both as it regards the manner and the prices of the work, is regulated by law. Before the close of each congress, a printer is chosen, by each house, to execute its work during the next congress. The person elected is required to give a bond, with sureties, to the secretary of the senate and clerk of the house of representatives, for the prompt and faithful execution of the work.

152. Neither house, during the session of congress, may, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting. The time of the final adjournment is fixed by a concurrent resolution of both houses. Every second year, congress must of necessity adjourn on the third day of March, as the term for which the house of representatives and one third of the senate are elected, expires on that day.

153. The senators and representatives shall receive a compensation for their services, to be ascertained by law.

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ing the journals of congress? How does the law regulate their publication? 151. How is the printing of congress regulated? 152. How is the power of each house to adjourn restricted? When does the constitutional term of each congress expire? 153. How

and paid out of the treasury of the United States. The compensation at present received by a member of congress, is eight dollars for every day's attendance in the house, and eight dollars for every twenty miles of estimated distance, by the most usual route, from his residence, both going to, and returning from, the place of the meeting of congress. The president of the senate *pro tempore*, when the vice president shall be absent, and the speaker of the house of representatives, respectively receive, in addition to their compensation as members of congress, eight dollars for every day's attendance on their respective houses.

154. Members of congress, in all cases, except treason, felony, and breach of the peace, are privileged from arrest by any civil process, during their attendance at the session of their respective houses, and in going to, and returning from, the same; and, in order to preserve the freedom of deliberation, no member of either house can be questioned, in any other place, for any speech or debate in the house of which he is a member.

155. No senator or representative may, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, may be a member of either house during his continuance in office.

156. Civil offices are created, and the salaries of public officers are established by congress. Therefore, to take away from its members all inducement unnecessarily to create offices, their appointment to such offices is prohibited. In order to preserve, as far as possible, purity of action in the national legislature, it has by law been provided, that no member shall be allowed to make any contract, or to have any interest in any contract, to be

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is the compensation of members fixed? What is their present compensation? 154. What privileges have members during the session of congress? 155. How are they restricted as to receiving and holding offices? 156. What is the object of this restriction? From what are members further prohibited? Under what penalty?



made with any officer of the United States, or with any person authorized to make contracts on the part of the United States. Upon conviction for a violation of this law, a member is adjudged guilty of high misdemeanor, and fined three thousand dollars; and such contract shall be void.

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## CHAPTER V.

### *Of the Manner of Enacting Laws.*

157. EACH house may determine the rules of its proceedings. These rules, in both houses, are substantially the same. Soon after the meeting of congress, *standing committees* are appointed for the session, upon all subjects which usually receive the action of congress. Committees are also appointed, from time to time, upon special subjects as they arise: these are called *select committees*. Both standing and select committees are appointed in the house of representatives by the speaker; in the senate, they are generally appointed by ballot, but sometimes by the president of the senate. The object of the appointment of committees is the despatch of business. So great a variety and number of subjects require the deliberation of congress at every session, that but a very small portion of them could be disposed of, if the attention of the whole house were confined, during the whole session, to a single subject at a time.

158. When a committee to whom a subject has been referred, has duly investigated it, such committee makes a report to the house to which it belongs. When a committee reports in favor of any measure which it has had under consideration, it usually introduces a *bill* with such

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157. When, and how are standing and select committees appointed? What is the object of their appointment? 158. What is a

report. A *bill* is the draft or project of a law. Bills may also be introduced by an individual member upon leave being granted on motion, after due notice of his intention to move the house to grant it.

159. A bill, before it can be passed by either house, must be read three times; and these several readings must be on different days, unless otherwise ordered by the unanimous consent of the house. No bill can be committed or amended until it shall have been read twice. It is then declared to be ready for commitment or for engrossment. To *engross* a bill, is to copy it in a large, fair hand, after the amendments have been made to it. If the bill be committed either to a standing or select committee, or to a committee of the whole house; or if the bill be ordered to be engrossed, the house appoints the day on which it shall be read the third time. When the house resolves itself into a committee of the whole to consider a bill thus committed, the speaker appoints another member to preside as chairman; and the speaker may take a part in the debates as an ordinary member.

160. Bills of unusual importance are usually referred to a committee of the whole house; and all propositions for taxes, and for appropriations of money, must first be discussed in committee of the whole. Matters are referred to a committee of the whole, because the rules of either house, when the proceeding is in the house itself, do not allow so great a degree of freedom in discussing the merits of any question, or of settling its details, as is allowed in committee of the whole.

161 All bills for raising revenue must originate in the house of representatives; but the senate may propose, or concur with, amendments, as on other bills. According to the practice of congress, bills for raising revenue are those only which provide for levying taxes, in the strict sense of the term. Bills, therefore, which *indirectly*

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bill? When, and by whom are bills introduced? 159. What order is taken upon a bill before its commitment or engrossment? What further proceeding is had on it? 160. To what committee are important bills committed? Why are matters referred to a committee

increase or create revenues, are not considered as revenue bills within the meaning of the constitution.

162. A bill may, at any time before its passage, be re-committed for further consideration; and when it has been reported on by a committee, or after it has been fully discussed and amended in the house, it is then proposed to be engrossed and read a third time. Then is the proper time for those opposed to the bill, to take their stand against it.

163. If a bill has passed one house, it is sent for concurrence to the other, in which it must go through similar forms of examination and discussion. Whether it be agreed to, or amended, or wholly rejected, by the house to which it has been transmitted for concurrence, it is returned to the house in which it originated, with a message communicating the result. If amendments have been made in one house which are not agreed to in the other, a message to that effect is sent to the former. If the two houses cannot agree to the amendments, a committee of conference is appointed in each house. If, after receiving the report of the committees of conference, an agreement or compromise be not effected, the bill is lost.

164. When a bill has passed both houses, it is presented to the president of the United States; if he approves, he signs it; but if not, he returns it, with his objections, to the house in which it originated, which enters the objections at large on its journal, and proceeds to reconsider it. If, after such reconsideration, two thirds of the house agree to pass the bill, it is sent, together with the objections, to the other house, by which it is likewise reconsidered, and, if approved by two thirds of that house, it becomes a law. If any bill be not returned by the president within ten days (Sundays excepted,) after it has been presented to him, it shall be a law, in like manner as if

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of the whole house? 161. What bills must originate in the house of representatives? What are *revenue* bills? 162. When is a bill proposed to be engrossed? 163. What is the course of action on a bill, after it has passed one house? 164. After its passage by both

he had signed it, unless congress, by its adjournment, prevent its return, in which case it shall not be a law.

165. The provision giving to the president power to negative bills which shall have passed both houses, otherwise called the  *veto* power, was not adopted without much discussion. It was opposed, on the ground that the action of congress upon any subject ought to be regarded as the act of the people, and must be presumed to be the expression of their will; and that, with this power, a single individual might defeat the represented will of a majority of the people. On the other hand, it was believed to be improbable that a president would ever so far forget his responsibility to the people, as to abuse this power. This power was meant to afford additional security against the passage of improper laws through want of due reflection; but it was thought necessary chiefly to defend the executive department against usurpation by the legislative power. Without this check, the president might gradually be stripped of his authority.

166. Every order, resolution, or vote, to which the concurrence of the senate and house of representatives may be necessary, (except on a question of adjournment,) must be presented to the president of the United States, and, before the same shall take effect, be approved by him, or, being disapproved by him, must be passed by two-thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

[The enumeration of the general powers of congress comes next in order in the constitution; but as the subjects of these powers will come under review in another place, they are here omitted. These powers extend generally to all subjects of a national nature, and are expressed in the 8th section of the 1st article of the constitution.]

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houses, what is necessary to its becoming a law? 165. What is meant by the negative, or  *veto* power? What is the object of this power? 166. In what cases is the approval of the president necessary?

## CHAPTER IV.

*Executive Power.—President's Term of Office—Mode of Election—Qualifications.*

167. THE executive power is vested in a president of the United States of America. The object of the executive department is the execution of the laws; and to ensure promptitude, decision and force, in the administration of this department, the executive authority is limited to a single person. Experience had convinced the framers of the constitution of the inefficiency and weakness of a compound executive. The project of executive councils had been tried, and abandoned, and single executives were created. Unity increases not only the efficacy, but the responsibility of the executive power. As every act can be traced and brought home upon the proper agent, there will be less temptation to depart from duty, and greater solicitude for reputation, than when there are partners to share the public censure, or to divide the public approbation.

168. When a law has been duly made and promulgated, it is the duty of the executive officer to see that it be faithfully executed. It is not for him to deliberate and decide upon the wisdom or expediency of a law, after it has passed through all the forms of deliberation prescribed in the constitution. It should then receive prompt obedience, until repealed by the legislature, or pronounced by the judicial department to be repugnant to the constitution.

169. The president holds his office during the term of four years, and is elected with the vice president, who is chosen for the same term. It is provided by law, that the term of four years for which a president and vice

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167. In what is the executive power vested? What is the object of this department? What are the benefits of a single executive? 168. What is the duty of the executive, after a law has been duly made and promulgated? 169. How long does the president hold

president are elected, shall, in all cases, commence on the fourth day of March, next succeeding the day on which the votes of the electors shall have been given. This day was probably fixed upon for the commencement of the presidential term, because the term for which the house of representatives and one third of the senate are elected, expires on the third day of March, in every second year; and the term of each new congress consequently begins on the fourth of March.

170. The term for which the president is elected, is deemed sufficiently long for the purpose of making him feel firm and independent in the discharge of his duties, and to give stability to his administration; and yet short enough to place him under a due sense of dependence upon the public approbation. The president may be re-elected after the expiration of the term for which he was elected; but no one has yet consented to be a candidate for a third election.

171. For the election of president, each state is required to appoint, in such manner as the legislature thereof directs, a number of electors, equal to the whole number of senators and representatives, to which the state may be entitled in congress. The manner of appointing electors is not uniform throughout the states. In some of the states, the electors are appointed by the legislature. In others, they are chosen by districts. By this mode, a number of electors, equal to the number of members of the house of representatives, to which a state is entitled, are chosen by the people in the same manner in which representatives are elected. These electors, so chosen, then meet, and choose the remaining two electors, corresponding with the number of senators to which the state is entitled in congress. Another mode, and that

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his office? When does the term of a president and vice president commence? Why was this day fixed upon? 170. What considerations prevailed in determining upon four years for the presidential term? 171. How are the electors of president and vice president appointed? What number is necessary? What are the different modes adopted in different states for choosing the electors

which prevails at present in a majority of the states, is by general ticket. According to this system, the names of a number of candidates, equal to the whole number of electors to be chosen, are placed on a single ballot; and such number of candidates are voted for throughout the state.

172. No senator or representative, or person holding any office of trust or profit under the United States, may be appointed an elector. This is to prevent the person in office from having an improper influence in procuring his re-election, by his ordinary agency in the government. Persons thus holding offices under the government, whose continuance in such offices depends on the will of the executive, if chosen to be electors, might be tempted to vote for that candidate for president, whose favor they would be most likely to secure, without due regard to his fitness for the office.

173. The election of president by a small number of electors, chosen in each state for that purpose, was intended to prevent the evils that were apprehended from an election by the people at large. It was feared that an election in which the people of the entire union should participate, would produce a contest too violent and tumultuous for the public virtue and tranquillity. Another object of the present mode was to preserve the state sovereignties, and to prevent the entire consolidation of the government, in organizing the executive department. There are, however, at the present day, many advocates for referring the election of president directly to the people.

174. Congress may determine the time of choosing the electors, and the day on which they shall give their votes; which day shall be the same throughout the United States. This provision was meant to close, as far as possible, the opportunity for bargain and intrigue in the

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of president and vice president? 172. Who may not be appointed an elector? What is the object of this restriction? 173. Why was not the election of president referred directly to the people? 174. What is the time determined by congress for choosing the

election. Congress has accordingly enacted, that the electors shall be chosen within thirty-four days preceding the day on which they shall give their votes; and that the day on which their votes shall be given, shall be the first Wednesday in December, in every fourth year after the last election.

175. The electors in each state meet at the place appointed by the legislature thereof, which is usually at the seat of the state government, and vote by ballot for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with the electors. They name, in their ballots, the person voted for as president, and in distinct ballots, the person voted for as vice president; and they make distinct lists of all persons thus voted for, and the number of votes given for each. These lists they sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate.

176. By an act of congress, the electors in each state are required to make and sign three certificates of all the votes by them given, and to seal up the same. One of these certificates is directed to be sent by a person duly appointed by them for that purpose, to the president of the senate, at the seat of government, before the first day of January next ensuing. Another of these certificates is ordered to be forwarded, by the post office, also directed to the president of the senate; and the other certificate is to be delivered to the judge of the district in which the electors are assembled. The day appointed for opening the certificates and counting the votes, is the second Wednesday in February succeeding the election.

177. The president of the senate, on the day appointed, in the presence of both houses, opens all the certificates received by him; and the votes are then counted: the

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electors? What the time for the electors to choose the president? 175. At what place do the electors meet to vote for president? How are the candidates voted for? 176. How does the law regulate the signing and disposing of the certificates of votes? On what day are the votes counted? 177. How is the election determined? If the



person having the greatest number of votes for president, is president, if such number be a majority of the whole number of electors appointed; but if no person has such majority, then, from the persons having the highest numbers, not exceeding three, on the list of those voted for as president, the house of representatives shall immediately choose, by ballot, the president.

178. But when the choice of president devolves on the house of representatives, the votes are taken by states, the representation from each state having one vote. A quorum for this purpose shall consist of a member or members from two thirds of the states; and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, before the fourth day of March following, then the vice president shall act as president, as in case of the death or other constitutional disability of the president.

179. The person having the greatest number of votes as vice president, is vice president, if such number be a majority of the whole number of electors appointed; and if no person has a majority, then, from the two highest numbers on the list, the senate chooses the vice president. A quorum for this purpose shall consist of two thirds of the whole number of senators; and a majority of the whole number is necessary to a choice.

180. No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of the constitution, is eligible to the office as president. The qualification of birth cuts off all inducements from abroad to corruption and negotiation. As the president is required to be a native citizen of the United States, ambitious foreigners cannot intrigue for the office.

181. Neither is any person eligible to the office of president, who has not attained to the age of thirty-five

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electors fail to make choice, who chooses the president? 178. How, in this case, are the votes taken? What is necessary to a choice? If no choice be made, who is to act as president? 179. How is the vice president chosen when the electors fail to elect? 180, 181. What qualifications must a president possess? What are the objects of

years, and been fourteen years a resident within the United States. The age required, is sufficient for a person to have formed his public and private character; and a long domestic residence is intended to afford his fellow citizens the opportunity to attain a correct knowledge of his principles and capacity, and to enable him to acquire habits of attachment and obedience to the laws, and of devotion to the public welfare.

182. The same qualifications are necessary to render a person eligible to the office of vice president, as are required for the office of president.

183. In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same devolves on the vice president, and congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president be elected.

184. Congress has provided by law, that, in case these supposed vacancies shall happen, the president of the senate *pro tempore* shall act as president; and, in case there should be no president *pro tempore*, the speaker of the house shall so act, until the vacancy be supplied. And as it may become a question on whom the office would devolve after the expiration of the congress for which the speaker was chosen, it is usual for the vice president to withdraw from the senate previously to the adjournment of the session, to afford an opportunity to the senate to choose a president *pro tempore*, who would, in that case, act as president.

185. If the vice president succeed to the office of president, he continues in it till the expiration of the term for

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these restrictions? 182. What are the qualifications of a vice president? 183. How does the constitution provide for filling a vacancy in the office of president? 184. How has further provision been made to supply casual vacancies? 185. When the vice president succeeds to the office of president, how long does he hold it?

which the president was elected, unless the temporary disability of the president be sooner removed. If both offices should be vacant, the law makes it the duty of the secretary of state to cause notice to be given to the executive of every state, and published, ordering an election for the appointment of presidential electors, to elect a president.

186. The president, at stated times, receives for his services a compensation, which is neither to be increased nor diminished during the period for which he has been elected; and he shall not receive, within that period, any other emolument from the United States, or any of the states.

187. As it is a fundamental principle of our government, that the several departments should be kept separate and distinct, the support of the president was secured by a constitutional provision, in order to preserve the due independence of the executive department; which could not be expected, if the legislature could control, at its discretion, the salaries of the executive and judicial officers. The compensation provided by law for the president, is \$25,000 a year, with the use of buildings, furniture, and other effects belonging to the United States; and that of the vice president is \$5,000 a year, payable at the treasury.

188. Before a president enters on the execution of the duties of his office, he is required to take the following oath or affirmation:

“ I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States; and will, to the best of my ability, preserve, protect and defend the constitution of the United States.”

189. It is the practice, under the constitutions, both of the United States, and of all the states, for legislators,

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If both offices become vacant, how are the vacancies filled? 186. How is the president's compensation provided for? 187. What is the object of a constitutional provision for the support of the president? What compensation does he receive? What the vice president? 188. What is required of the president before he enters

judges, jurors, witnesses, and other civil, as well as military officers, to bind themselves under the solemnity of an oath, to discharge their trusts and duties faithfully. An oath supposes a belief that there is a God, who will hereafter reward the worthy and punish the wicked. There are persons who believe that all oaths are forbidden: they simply *affirm*, or declare. But a false affirmation subjects the person so affirming, to all the pains and penalties of perjury.

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## CHAPTER VII.

### *Powers and Duties of the President.*

190. THE president is, by the constitution, made commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into actual service of the United States. The command and application of the public forces to execute the laws, maintain peace, and resist foreign invasion, are powers of an executive nature, and require the exercise of qualities characteristic of this department: in every well organized government, these powers have therefore been appropriated to the executive.

191. The president may require the opinion, in writing, of the principal officers in each of the executive departments, upon any subject relating to the duties of their offices. As the several departments are established to aid in the administration of the laws, and as the duties of the president make it necessary that he should be kept acquainted, as fully as possible, with the business of every

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on the duties of his office? 189. What is an *oath*? What is the practice of those who believe oaths to be forbidden?

190. What power has the president in relation to the army and navy? 191. Why are the opinions of the executive officers requi-

branch of the executive department; it is proper that the principal officers in each should give to the chief executive officer, such information and assistance, as may be at any time required of them.

192. The president has power to grant reprieves and pardons, for offences against the United States, except in cases of impeachment. The necessity of a pardoning power, arises from the imperfection of human justice. Under the most correct administration of the laws, men are sometimes liable to suffer from revengeful accusers, the inaccuracy of testimony, or the fallibility of jurors. But there are cases in which policy and humanity require that punishment should be remitted, though the crime be clearly ascertained. The power of pardon, vested in the president, is unlimited, except in cases of impeachment. He is prevented, in that case, from screening public officers, with whom he might have formed a corrupt coalition, or who might be his particular favorites or dependants.

193. The president has power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur. A *treaty* is a bargain or agreement between nations on any matter that concerns them. It is in this manner that civilized nations settle their disputes, and agree upon the terms of peace at the close of a war. Commercial intercourse between nations is sometimes regulated by treaty. The terms of a treaty are agreed on by the ministers of each party, who put their agreement in writing; two copies of which are made, signed and sealed: and one of them is sent to each of the respective sovereigns, by whom the contract is either ratified or rejected. Both parties must ratify, or there is no treaty.

194. In a monarchical government, the power of ratifying and rejecting treaties is exercised by the king. In the United States, the power of making treaties is confided

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re: 192. From what arises the necessity of the pardoning power? How is this power limited? 193. What is a *treaty*? What matters are regulated by treaty? How are treaties made? 194. In whom

to the president and senate. As treaties are the supreme *law* of the land, this power is considered by some as more properly belonging to the legislature in a free government. But as secrecy and despatch in negotiations may become necessary, in order to take advantage of a sudden and favorable turn of public affairs, this power is properly confided to the executive. And yet, to place without limitation, in the hands of the president alone, so important a power, was not deemed altogether safe. The senate was therefore properly associated with the president in the exercise of this power. Its members are easily assembled, and are generally governed by steady, systematic views, and a due regard for national character, and act with promptitude and firmness.

195. The president nominates, and by and with the advice and consent of the senate, appoints ambassadors, other public ministers, and consuls, judges of supreme court, and all other officers of the United States, whose appointments are not in the constitution provided for, and which shall be established by law. But congress may, by law, vest the appointment of such inferior officers as it thinks proper, in the president alone, in the courts of law, or in the heads of departments.

196. The appointment of subordinate officers of the government, concerned in the administration of the laws, belongs with great propriety to the president, who is in a measure responsible for the faithful execution of the laws. The association of the senate with the president in the exercise of this power, affords a salutary check upon the misinformation or errors of the president, whilst it does not materially lessen his responsibility, or his liability to the public censure or approbation; as he still retains the right of selection and nomination, and as the senate seldom rejects a nomination, unless it be highly exceptionable.

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is this power vested in the United States? For what reasons is the senate, more properly than the house, associated with the president? 195. How are executive officers nominated and appointed? 196. Why are the advice and consent of the senate deemed essential?

197. The president has power to fill up all vacancies that happen during the recess of the senate, by granting commissions which shall expire at the end of its next session. This power is essential to prevent the inconvenience, and that detriment to the public interest, which might be occasioned by vacancies in office. But the same reasons for which the senate is made a part of the appointing power, require that commissions granted by the president should not extend beyond the close of the next session of the senate. Without this restriction upon the power to fill vacancies, the president might continue men in office at his own pleasure, for an unlimited period, howsoever incompetent or unfaithful they might be.

198. Vacancies that *happen*, are those which occur from death, resignation, promotion or removal; and the power has been questioned of appointing ambassadors to foreign nations, during the recess of the senate, where no such appointments had before been made; as, in that case, no vacancy would have *happened*. And if the senate be in session when a new office is created by law, and a nomination be not then made by the president, it is supposed he cannot appoint to such office during the recess, as the vacancy does not then happen.

199. The power of the president to *remove* an executive officer has also been questioned, as no such power is expressly authorized by the constitution; but as it does not declare that any but judicial offices may be held *during good behavior*, it is presumed that others are held during the pleasure of the appointing power.

200. The president is required, from time to time, to give to congress information of the state of the union; and to recommend to its consideration such measures as he shall judge necessary and expedient. He delivers to congress annually, at the opening of every session, a *message*, giving information relative to the state of the union, its internal affairs, and its relations with foreign

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197. What power has the president in filling up vacancies? 198. What are vacancies that *happen*? 199. May the president *remove* an executive officer? From what is this power inferred? 200. What

powers. He also recommends to congress the adoption of such measures as the public good may be supposed to require. *Special messages* are also communicated to congress, from time to time, on subjects as they arise, or in obedience to calls of congress for information.

201. The president may, on extraordinary occasions, convene both houses, or either of them; and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He is required to receive ambassadors and other public ministers; to take care that the laws be faithfully executed; and to commission all the officers of the United States. The propriety of committing these simple duties to the president, is self-evident: they are in their nature duties that pertain to the executive department of the government.

202. The trusts committed to the president are various and important; and their proper or improper exercise must have a sensible effect, either for good or for evil, upon the general welfare. In view of the magnitude of the executive trust, the constitution has made liberal provision to prevent its abuse: first, in the mode of the president's appointment; which seems to afford a sufficient safeguard against the election of incompetent men, as well as against the successful employment of undue means to procure an election: secondly, by the limitation of office; he being made subject to removal at the end of four years: thirdly, by the precise and definite limitations of his power: and lastly, by providing for his removal from office, by impeachment, at any time, for misdemeanor or mal-administration.

203. But to all these safeguards and restrictions, should be superadded unremitting watchfulness on the part of the people. No barriers which the constitution interposes, nor all the restraints which have been, or that can be,

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does the president's message contain? What is a *special message*? 201. What other duties are required of the president? 202. By what provisions in the constitution, is the abuse of executive power guarded against? 203. What further safeguard is necessary?



imposed by law, will be sufficient to protect the liberties of the people, if the public eye cease its supervision of the conduct of those entrusted with the exercise of the powers of government; and if the sovereign people be not disposed to call those to account who abuse the trusts confided to them.

## CHAPTER VIII.

*Executive Auxiliaries—Department of State—of the Treasury—of War—of the Navy—Attorney General—Executive Officers Abroad.*

204. To aid the president in the administration of the government and laws of the United States, the following departments have been established, viz: The departments state, of the treasury, of war, of the navy, of the post office: the officers of these departments, together with the attorney general, form the principal home ministers of the executive, and constitute what is called *the cabinet*. The foreign ministers, and agents of a permanent character, are ambassadors, charges des affaires, and consuls.

205. *Department of State.* This department existed for many years before the adoption of the constitution. It was called the "department of foreign affairs," and the chief officer was entitled "the secretary of the department of foreign affairs." By the act of 1789, it was denominated "the department of state;" and the principal officer therein, "the secretary of state;" who performs such duties as are committed to him by the president, relative to foreign intercourse, and to public ministers and consuls; or to negotiations with foreign powers, to memorials and other applications from foreign ministers

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204. What auxiliary departments have been established to aid in the administration of the government? What are the heads of these departments called? 205. What are the duties of secretary

or other foreigners; or to such other matters as shall be assigned to his department by the president of the United States. As the official opinions of the executive are expressed, in all diplomatic intercourse, through this officer, he is sometimes called, the diplomatic agent. *Diplomacy* means the power of negotiation; or, the customs, rules and privileges of ambassadors, or other representatives at foreign courts.

206. The secretary of state keeps the seal of the United States; he makes out records and seals all civil commissions to officers appointed by the president, by and with the advice and consent of the senate, or by the president. He causes the laws, and all treaties ratified by the United States, after their passage, to be published in the newspapers designated for that purpose, not exceeding three in each state and territory. He causes to be published, at the close of every session, eleven thousand copies of the acts of congress, and to be distributed among the officers of the general government, and among the several states. There are many duties of a similar nature which devolve upon this officer. The patent office is connected with this department. The secretary of state employs a chief clerk, and a number of subordinate clerks, whose compensation is fixed by law. The salary of the secretary of state is \$5000 a year.

207. *Department of the Treasury.* This department existed, under different forms, during the confederation, and for many years after the adoption of the constitution. It received its present organization, by the act of March, 1817. The officers of this department are, a secretary, who is the head of the department, two comptrollers, five auditors, a treasurer, a register, a commissioner of the land office; each of whom is allowed one chief clerk, and such additional clerks as the business of their respective offices renders necessary.

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of state? What is *diplomacy*? 206. What other duties does this officer perform? What is his salary? 207. What are the officers of the treasury department? 208. What are the duties of the sec-

203. The secretary of the treasury prepares, and lays before congress, at the commencement of every session, a report of the finances, containing a statement of the public revenue and expenditure during the past year, the value of the imports and exports for the same period, and estimates of the revenue and expenditures for succeeding years, and plans for improving the revenues. He also makes, annually, a statement of appropriations of money, and of sums remaining in the treasury: he superintends the collection of the revenue, and provides for building and keeping in repair, the light houses, beacons, buoys, and public piers in the several states; and performs such other duties as appertain to his office. His salary is \$6000 a year.

209. The business of the comptrollers and auditors, relates chiefly to examining and settling the public accounts, and to the recovery of debts due to the United States. The treasurer receives and keeps the money of the United States, and pays out the same on warrants drawn by the secretary of the treasury; and on the third day of every session, lays before congress copies of all accounts settled with the comptroller, and a true account of the state of the treasury. The register annually prepares statistical accounts of the commerce of the United States with foreign countries, for the preceding year, to be laid by the secretary of the treasury before congress at every session. Such accounts state the goods imported and exported, and the navigation employed in the foreign trade. The commissioner of the land office superintends and performs such acts as relate to lands patented or granted by the United States. No person holding an office in this branch of the department, is allowed to have any interest in the purchase of any public land; nor may he take any fee or emolument for negotiating or transacting the business of the office, other than his salary.

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retary of the treasury? What is the amount of his salary? 209. What are the duties of the subordinate treasury officers respectively? What restriction is imposed upon the officers of the land office?

210. The laws regulating the treasury department prescribe the manner of keeping, settling and collecting the public accounts. In cases of insolvency, debts due the United States on revenue bonds, must be first satisfied. The United States cannot be sued. A creditor who is refused payment, must apply to congress.

211. *Department of War.* The secretary of war performs such duties as relate to military commissions, or to the land forces, and warlike stores of the United States; or to such other matters respecting military or Indian affairs, as shall be assigned to his department. He is required to make an annual statement to congress of the expenditure and application of moneys drawn from the treasury for his department, and to make such suggestions to congress relative to the condition of his department, as he shall think proper. His salary is \$6,000 a year.

212. In this department, is transacted the business relating to military pensions. A *pension* is a yearly allowance to a person by the government, in consideration of past services. Laws have existed, from the first organization of the government, granting pensions to persons disabled in the war of the revolution, in such manner as to render them unable to procure a subsistence by manual labor. After the close of the late war, persons were added to the pension list, who had been disabled by wounds while in the service during the late war. Pensions were also allowed, by act of 1818, to all the soldiers of the revolution, who had served nine months or longer in such war, and who were in necessitous circumstances. By act of 7th June, 1832, the pension list was so extended as to include all who had served in the army or navy, during the war of the revolution, for six months at least.

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211. What are the duties of the secretary of war? What is his salary? 212. What other business is done in this department? What is a *pension*? To what classes of persons were pensions confined before 1832? To what class were they then extended?

213. *Department of the Navy.* The secretary of the navy executes the orders of the president, relative to the procurement of naval stores and materials, and the armament, equipment and employment of vessels of war, as well as all other matters relating to the naval establishment. His salary is \$6000 a year.

214. Three officers are appointed by the president and senate, who constitute a board of commissioners for the navy, and who discharge the ministerial duties of the office of the secretary, and furnish all estimates of expenditures which the several branches of the service may require. Their salaries are \$3500 a year, each.

215. *Attorney General.* The act of 24th September, 1789, provides for the appointment of a meet person, learned in the law, to act as attorney general of the United States, who shall be sworn to a faithful execution of his office. His duty is to prosecute and conduct all suits in the supreme court, in which the United States shall be concerned, and give his advice upon questions of law, when required by the president, or when requested by the heads of any of the departments. His salary is \$3500 a year.

216. *Executive Officers Abroad.* It is the practice of each civilized nation, to send one of its citizens, in time of peace, to reside at the seat of government in other nations. A person thus sent, is sometimes called ambassador. Ambassadors are either ordinary, or extraordinary. An ambassador *extraordinary*, is a person sent on some particular occasion, and who retires as soon as the affair on which he was sent is despatched. An ambassador *in ordinary*, is one who constantly resides at a foreign court, to maintain a good understanding, and to look to the interests of his prince or nation.

217. The agent sent by the United States to reside at a foreign court, is generally called *minister*. He is the

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213. What are the duties of the secretary of the navy? What is his salary? 214. What is the duty of the navy commissioners? What are their salaries? 215. What are the duties of the attorney general? What is his salary? 216, 217. What are *ambassadors*?

representative of the government to which he belongs; and his duties depend on the instructions given him. Ministers of the United States are allowed \$9000 a year for their personal services and expenses. A *charge des affaires*. (French,) meaning *charge of affairs*, is an agent of the United States, of an inferior grade, sent abroad, charged with the management of the affairs of his nation. He is allowed for his services and expenses, \$4500 a year. But the president may allow to a minister or charge des affaires, on going out of the United States, in addition to his salary, an *outfit*, equal in amount to one year's full salary.

218. *Consuls* are commercial agents residing in foreign seaports. Their duties are various. They receive the protests or declarations which captains, passengers, and merchants, citizens of the United States, may make there. They dispose of the personal estate left by citizens of the United States, who die within their consulates, leaving no legal representative, or partner in trade, to take care of their effects. They receive the registers, sea letters, or passports, of masters of United States' vessels arriving at the port where they reside. Their business is to render any assistance which merchants or ship masters of their own country may need; and they grant all certificates required by commercial regulations, or by treaty. Consuls are either paid a salary, or depend on fees fixed by law, for each of the several duties they are required to perform.

Where do they reside? What are their duties? What are the names of the different foreign agents of the United States? What are the duties of a minister? Or a *charges des affaires*? What are their respective salaries? 219. What are the duties of a consul? What is his salary?

## CHAPTER IX.

*Of the Judicial Power.*

219. THE judicial power is that branch of the government, to which the administration of justice, and the interpretation of the constitution and the laws, are entrusted; and no government can be complete, without such a distinct and independent department. Without this power, a constitution could not be carried into effect; and yet, to vest the power of interpreting and applying the laws, together with the power of making and executing them, in a single man, or body of men, would constitute an absolute despotism, subject to no restraint but that of brute force.

220. The constitution declares, that "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts, as congress may, from time to time, ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office."

221. In organizing the judicial department, it was deemed of the first importance to render the judges independent. To secure this object, provision has been made, (1.) in the mode prescribed in the constitution for their appointment. To fulfil the duties of the judicial office, men should be selected of the most inflexible justice, who could not be swerved from a faithful discharge of their duties, by considerations of fear or favor. But as the qualities requisite for this office are not the most popular, men possessing these qualities, would probably too often

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219. What is meant by the *judicial power* of the government? Why is this power necessary? 220. Wherein is the supreme court vested? What are the constitutional provisions for the term of office, and compensation, of the judges? 221. What is particularly important in constituting a judiciary? What provisions are made

fail to secure an election resting on universal suffrage. Their appointment was therefore vested in the executive and the senate. The independence of the judges is secured, (2.) by the duration of their offices; which is, in effect, for life, unless sooner removed on impeachment for official delinquency. This is esteemed one of the most valuable of modern improvements in the practice of government. And (3.) the permanent provision for their support is calculated to secure an independent judiciary. Without such a provision, the fittest and most learned men would not relinquish lucrative professional pursuits, for a station in the government, for the labors of which a liberal and permanent compensation was not provided.

222. To ensure a just performance of their duties, they are made amenable for any corrupt violation of their trust, and, on impeachment, they may be removed from office, and disqualified from holding any office whatever, under the government of the United States.

223. The judicial power extends to all cases in law and equity, arising under the constitution, the laws of the United States, and treaties made under their authority; to all cases affecting ambassadors, other public ministers and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States is a party; to controversies between two or more states; between a state and citizens of another state; between citizens of different states; between citizens of the same state claiming lands under grants of different states; and between a state, or the citizens thereof, and foreign states, citizens, or subjects.

224. The propriety and fitness of these judicial powers, seem to result, as a necessity, from the union of the states in one national government; for without them, a government could not long exist. They are made to extend "to all cases arising under the constitution," because the

by the constitution, to secure the independence of the judges? What is the amount of their salaries? 222. What provision is made to ensure a just performance of their duties? 223. To what cases does the judicial power extend? 224. Why might not the state



meaning and operation of a compact ought always to be ascertained by an authority derived from all the parties, and not from an authority derived from any one of them. The cases here enumerated, are evidently of national concern; and the exercise of the judicial power by any one of the parties, would produce confusion and mutual dissatisfaction, and disturb the peace of the union.

225. The organization of the judiciary was provided for by the judiciary act of 24th September, 1789. By this act were constituted, the supreme court, and courts of inferior grade, called circuit courts, and district courts.

226. The *supreme court* consists of a chief justice, and six associate justices, any four of whom are a quorum. This court holds annually, at the city of Washington, one session, commencing on the second Monday of January. The session usually continues about eight weeks.

227. The constitution provides that, in all cases affecting ambassadors, other public ministers, and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.

228. By *original* jurisdiction in any case, it is meant, that such case may *originate*, or commence, and be tried in this court. If a case has been first tried in an inferior court, and a party be not satisfied with the decision of the court, such party may *appeal* to the supreme court for trial. In such trial, this court is said to have *appellate* jurisdiction. The grant of original jurisdiction to this court does not imply, however, that it has *exclusive* jurisdiction. It has original jurisdiction in no other cases than those mentioned in the constitution. Its principal

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courts exercise these powers? 225. When was the judiciary organized? 226. Of what officers is the supreme court composed? Where and when is its annual session held? 227. In what cases has this court jurisdiction? 228. What is meant by *original* jurisdiction?

business is to re-judge cases that are brought from the circuit courts.

229. When the constitution or laws of the United States come in question, in the highest court in a state, and are there judged of, a writ of error may be brought, whereby a case is transferred to the supreme court; and the decision of the state court may be approved or reversed. This provision is an essential one, that the constitution and laws of the union may be finally judged of by one tribunal, and that there may not be discordant judgments in like matters. By writ of error, nothing is removed for re-examination but the law in the case; by appeal, the whole cause is entirely removed, and all the facts are submitted for a re-hearing.

230. The United States are divided into seven circuits, in each of which, two courts are annually held. A *circuit court* is composed of the judge of the supreme court, residing within such circuit, and the judge of the district wherein the court is held. The seven judges of the supreme court are so located as to bring one of them in each of the several circuits.

231. This court tries causes between citizens of different states, between aliens and citizens, and those wherein the United States is a party. It also tries some cases in appeal from the district courts. It sits in four different capacities: (1.) as a court of common law; (2.) as a court of equity, otherwise termed a court of chancery, in which there is no trial by jury; but the one party states his complaint in a bill of equity, and the other defends in a written answer. This is one of the few cases in the administration of justice, wherein what a party says for himself is evidence: (3.) as a maritime court, trying matters relating to affairs on the high seas. In time of war

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By *appellate* jurisdiction? What is *exclusive* jurisdiction? 229. How are cases removed to this court? What is the difference between cases removed by writ of error, and those removed by appeal? 230. Into how many circuit districts are the United States divided? How are the circuit courts constituted? 231. What cases are tried in this court? In what different capacities does this court sit? What

it tries all cases of prizes on appeal from district courts, and condemns the property captured: and (4.) as a court for the punishment of crimes against the laws of the United States. It has a grand jury and a petit jury. It tries all felonies punishable with death, as murders in forts and arsenals, and other territory ceded by the states to the United States for national uses, and on board ships of war in time of peace, and when not within the body of a county, or within a harbor.

232. *District courts* are the lowest national courts in the United States. Every state in the union, constitutes at least one district: in a few of the larger states, there are two. In each of these there is a *district judge*. His powers relate to cases arising under the laws made for the collection of duties, to seizures of goods, to penalties and forfeitures under the laws of the United States, to matters in which aliens and foreign consuls are parties; and to crimes of inferior grade against the laws of the United States, whether on land or sea. In every district there is a *district attorney*, who institutes and conducts suits for the United States; and a *marshal*, whose duty is similar to that of a sheriff. These courts hold annually four stated terms.

233. The constitution, and the laws of the United States, made in pursuance thereof, and all treaties made, or which shall be made under the authority of the United States, are declared by the constitution, to be the supreme law of the land; and the judges in every state are bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

234. This declaration seemed necessary to remove all doubt or ground of dispute, as to the superiority of the constitution and laws, and treaties of the United States, when they should be found to interfere with those of any state; and it necessarily belongs to the judicial power,

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is an *equity court*? What is a *maritime court*? 232. How are district courts constituted? What cases are tried by the district judges? What other officers are appointed in the several districts? 233. What does the constitution declare respecting its supremacy? 234. Why

whenever a case arises judicially, to determine what is the supreme law of the land. The determination of the supreme court must be final and conclusive, as the power is given to that tribunal to decide in all cases, and as there is no appeal from its decision.

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## CHAPTER X.

### *Powers of Congress.—Revenue—Taxes, Duties, &c.*

235. By *revenue* is understood the annual income of a nation, or those contributions to its treasury which are levied to defray the expenses of government. The money required for this purpose is usually raised by taxation. The constitution therefore authorizes congress "to lay and collect taxes, duties, imposts and excises, to pay the debts, and provide for the common defence and general welfare." It was necessary that congress should possess this power, as no government can be supported without the means of procuring an adequate supply of revenue.

236. *Taxes* are that portion of the property of its subjects, which a government exacts from them to supply the public necessities. These are called *direct taxes*, and are either taxes on land, or *capitation* or *poll taxes*. The treasury of the United States has been several times supplied by tax on landed property. But it is many years since direct taxes were resorted to. The income derived from duties on importations, from the sales of public lands, and from the post office, has proved sufficient to pay all the charges of the government, and to diminish rapidly the public debt.

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was this declaration necessary? To what tribunal are questions submitted for final decision?

235. What is *revenue*? What branch of the government has power to raise revenue? 236. What are *taxes*? From what sources is the

237. Duties on imported goods, however, constitute the chief portion of the revenue. They are called *indirect taxes*, because they are not directly levied upon property, but they merely affect the expense or consumption of goods. Duties, customs, excises and imposts, are words of nearly the same meaning. They are laid on imports and tonnage.

238. *Imports* are articles brought into a country from a foreign place. A *duty on imports* is not merely a tax on the act of importation, but an impost on the article imported. Duties are either specific or ad valorem. A *specific duty* is a tax of a certain, specified amount, laid upon an article by weight or measure, or in the gross. Thus, a duty of ten cents on a pound of tea, or fifty cents on a yard of cloth, is called a specific duty. *Ad valorem* is a Latin phrase, signifying according to the value. Ad valorem duties are therefore such as bear a certain proportion to the value of the goods. A duty of fifty per cent., that is, at the rate of fifty cents on every dollar, or fifty dollars on every hundred dollars, of the cost or estimated value of goods, is an ad valorem duty. Thus, if a yard of cloth, valued at one dollar, were subject to a duty of fifty per cent., such duty would be fifty cents a yard; if the value of the cloth were two dollars, the duty at the same rate would be one dollar a yard, the amount of duty on the yard varying according to the value of the article.

239. *Tonnage* is the amount of goods that a ship will carry; the contents or burthen of a ship; or the amount of weight she may carry. The duty charged on ships according to their burthen, or the number of tons at which they are rated, is called *tonnage duty*. These duties are usually fixed by congress.

240. By acts of 1790 and 1817, vessels of the United States, when entered in the United States from a foreign port or place, are made subject to a duty of six cents a

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revenue derived? 237. What are *duties*? On what are they laid? 238. What are *imports*? What is a *specific duty*? What are *ad valorem* duties? 239. What is meant by *tonnage*? *Tonnage duty*?

ton; but if the officers, and two thirds at least of the crew of a vessel, be not citizens of the United States, there shall be paid on such vessel fifty cents a ton. On every such vessel, entered in a district in one state, from a district in another state, the duty is six cents; but unless three fourths of the crew be American citizens, fifty cents a ton shall be paid. But the law imposes a higher duty on foreign than on American vessels. The above acts provide that on vessels built within the United States, but which belong wholly or in part to subjects of foreign powers, a duty of thirty cents a ton shall be paid; on other vessels, fifty cents a ton. On foreign vessels, entered in the United States from a foreign port at which American vessels are not ordinarily permitted to trade, there shall be paid a duty of two dollars a ton. Duties imposed on the tonnage of vessels, must in all cases be paid to the collector at the time of making entry, and before any goods may be unladen.

241. A *drawback* is an allowance made to importing merchants on the re-exportation of certain goods. This allowance consists either of the whole or a part of the duties which had been paid upon the importation. In England, the practice prevails, to some extent, of allowing the merchant who imports a commodity which he may wish to export again, to deposit it in the public warehouses, giving a bond for the payment of the duties should he dispose of it for home consumption. This is called *bonding*. In the United States, a drawback is allowed on all such goods as shall be re-exported to a foreign place, within twelve months after the duties on the importation shall have been paid, or security given for the payment of the same: provided the exportation be made by the sea, in vessels of not less than thirty tons burthen.

242. No drawback may be allowed on goods, unless the duties thereon amount to fifty dollars, nor unless they

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240. What is the amount of duty per ton, on foreign and domestic tonnage, respectively? 241. What is meant by *drawback*? What practice prevails in England? 242. In what cases only are drawbacks allowed? What is a *debenture*?

be exported in the original packages in which they were imported. For all goods entitled to drawback, the exporter receives from the collector a debenture for the amount of the drawback to which the goods are entitled. A *debenture* is a certificate stating the sum due to the exporter for the drawback of duties. It is made payable at the time when the duties on the goods shall become due; and the collector shall discharge the debenture out of the products of the duties arising on the importation of the goods.

## CHAPTER XI.

### *Revenue—continued.—Collection of the Customs*

243. For the *collection of customs*, there is appointed in every district of the United States, a *collector*, whose duty it is to receive, at the port within his district, all reports, manifests and documents to be made or exhibited on the entry of any vessel, to record all manifests, and to receive the entries of all vessels, and the goods imported in them. He is also required to estimate the duties, to receive all moneys paid for duties, and to take bonds for securing the payment thereof. He grants all permits for the unlading and delivery of goods; and, with the approbation of the principal officer of the treasury, he employs proper persons as weighers, measurers, gaugers and inspectors at the several ports within his district, and provides store-houses, scales, weights and measures.

244. There are appointed, at ports where it may be necessary, also a *naval officer* and *surveyor*. It is the duty of a naval officer to receive copies of all manifests and entries, and, with the collector, to estimate the duties

243. What are the duties of a collector of the customs? 244. What are the duties required of a naval officer? Of a surveyor?

on goods, and to keep a record thereof. He countersigns all permits, certificates, clearances, debentures, and other documents granted by the collector; examines the collector's abstracts of duties, and other accounts of receipts, bonds and expenditures; and, if found correct, he certifies them. The surveyor superintends and directs the inspectors, weighers, measurers and gaugers within his port. He visits and inspects the vessels that arrive, and makes a return in writing, every morning to the collector of vessels arrived the preceding day. He is in all cases subject to the direction of the collector.

245. In each of the ports at Boston, New York, Philadelphia, Baltimore, Charleston, Savannah and New Orleans, two *appraisers* are appointed, to inspect and appraise such goods as the collector may direct, and whenever that duty shall be required by any acts relative to imports and tonnage.

246. The collector, naval officer, surveyor and appraisers, are appointed by the president and senate; all of whom but the last named are required to give bonds, with sureties, for the faithful performance of their duties.

247. The compensation of appraisers is \$1500 a year, each; excepting those for the port of New York, who receive \$2000 each. The collectors, naval officers and surveyors receive specific *fees* for the several acts and duties they perform. But whenever the emoluments of a collector of the ports above named exceed four thousand dollars a year, of a naval officer three thousand dollars, and of a surveyor two thousand five hundred dollars, besides the necessary expenses incident to their offices, the excess shall be paid into the treasury of the United States. And whenever the emoluments of any other collector exceed three thousand dollars, of any other naval officer two thousand five hundred dollars, or of any other surveyor two thousand dollars a year, besides expenses, the excess is paid into the treasury.

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245. In what ports are appraisers appointed? What are their duties?

246. How are officers of the customs appointed? 247. What is their



248. The master or captain of every vessel belonging to citizens of the United States, in which goods are imported, shall have on board a *manifest*, which is a writing signed by himself, stating the name of the place where the goods were taken on board, and of the place to which they are consigned; the name, description and tonnage of the vessel, and the place to which she belongs; the name of each owner and her master; with a particular account of all the goods on board. It contains also the names of the persons that send the goods, who are called *consignors*, and the names of the persons to whom the goods are sent, who are called *consignees*. After the report of the master of the vessel to the collector is made, the owner or consignee of the goods makes an *entry* of the same, in writing, with the collector, specifying the names of the vessel and master, the place whence the goods were imported, the marks, numbers, denomination and prime cost of the same; and swearing to the truth of his statement, and its conformity to the manifest. When the amount of duties is ascertained, the consignees pay the same, or give bonds with sureties for the payment of them, at a certain time afterwards. The collector then grants a written *permit* for the unloading and delivery of the goods.

249. To secure the collection of duties, congress has made provision, by the imposition of heavy fines and penalties for the violation of the revenue laws, and by authorizing officers of the customs to seize and search vessels that may be suspected to contain goods subject to duty, the payment of which is designed to be evaded. The getting of goods on shore secretly, without paying the duties, is called *smuggling*. In cases of smuggling, and in some other cases of frauds on the customs, all the goods are forfeited, and become the property of the United States.

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compensation? 248. What is a *manifest*? Who are *consignors*? Who are *consignees*? What is an *entry*? A *permit*? 249. What provisions are made for securing the collection of the revenue? What is *smuggling*? 250. What further provision is made for securing

250. Further provision has been made to collect the duties, by authorizing the president to cause to be built and equipped so many revenue cutters, not exceeding twelve, as may be necessary to protect the revenue. A *revenue cutter* is a small, fast sailing vessel used for apprehending smugglers, and for boarding vessels supposed to contain contraband goods. The collectors of the respective districts also may, with the approbation of the secretary of the treasury, provide small open row and sail boats to be used by surveyors and inspectors, to enable them to go on board of vessels, and otherwise to detect frauds. All penalties accruing by breaches of the revenue laws, must be sued for in the name of the United States of America, in courts of the United States having jurisdiction in such cases.

251. The whole revenue of the United States in 1833, from all sources, as appears from the annual report of the secretary of the treasury, was as follows: From customs, \$29,032,508 91; lands, \$3,967,682 55; dividends on bank stock, \$474,985; sales of bank stock, \$135,300; incidental items, \$337,949 79; total, \$33,948,426 25. This amount exceeds that of any former or subsequent year.

## CHAPTER XII.

### *Public Expenditures.*

252. IN connexion with the power to lay and collect taxes, duties, imposts and excises, congress has the power "to borrow money on the credit of the United States," as equally requisite to pay the debts, and provide for the common defence and general welfare.

the collection of the revenue? What is a *revenue cutter*? 251. What was the amount of the national revenue in 1833?

252, 253. What power with that of levying and collecting taxes,

253. A power of taxation of some kind or other must be possessed by every government, to enable it to provide for paying the ordinary expenses of its administration; and the power to borrow money is sometimes indispensable for national defence, and other purposes for which the revenue of the country may prove to be inadequate.

254. The purpose for which congress has found it especially necessary to exercise the power of borrowing money, was the payment of the *public debt*. By the articles of confederation, the government adopted the public debt previously contracted to support the war; and the sixth article of the present constitution, imposes on the United States all debts contracted before its adoption.

255. The whole amount of public debt existing at the time the constitution was adopted, was nearly \$80,000,000. A tax upon individual property to liquidate so large a debt, would have been at that time extremely burdensome and oppressive to the citizens. Provision was therefore made in the constitution, authorizing congress to borrow money for this purpose, and to pledge the credit of the United States for its payment. By this means, together with such portion of the revenue arising from duties on imports and tonnage, as was not required for the support of the government, and the proceeds of sales of public lands, congress has been enabled so to control the public debt as to prevent, almost entirely, the necessity of a recourse to direct taxation.

256. The manner in which the government borrows money, is as follows:

When money is wanted to pay a debt, congress passes an act, authorizing the secretary of the treasury, or other person, to borrow the money, and to make the United States debtor for the same. The act states the amount to be borrowed, the time when it is to be paid, and the rate of interest. Persons who wish to lend money, then sub-

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has congress to pay debts, &c.? 254. For what purpose has this power been found especially necessary? 255. What was the amount of the public debt when the constitution was adopted? By what means, principally, has the debt been paid? 256. In what

scribe, in books opened for that purpose, the sums they will respectively lend; and for the sums so subscribed and lent, certificates are given by the agent of the government, stating the amount for which the United States are indebted. The debt so contracted, and for which the certificates are thus given, are called *stocks*. To persons having these certificates, the government pays, quarterly, the interest that accrues on them at the rate expressed in the act. These certificates are often bought by persons to sell again. When they are sold at a price equal to the amount expressed in them, stocks are said to be *at par*. If their market price be higher or lower than their nominal value, they are said to be above or below par.

257. During the late war, provision was made for borrowing money, by an act which authorized the issuing of notes by the treasury, bearing interest at six per cent. These notes were receivable by the government in payment for taxes, duties, public lands, &c.

258. By the purchase of Louisiana, in 1803, and the expenses of the late war, the public debt was increased to more than \$127,000,000. One of the means adopted to liquidate the public debt, was the creation, at an early period, of a sinking fund. *Sinking fund* signifies that part of the national revenue which is set aside for the national debt. Additional yearly appropriations were made, from time to time, until, in consequence of the augmentation of the public debt, by the Louisiana stock, it became necessary to increase them to \$8,000,000.

259. By the act of 1817, so much of all former acts as related to appropriations for the purchase of the principal, and payment of the interest of the funded debt, was repealed; and a yearly appropriation of \$10,000,000, arising from duties on imports and tonnage, internal duties, and from sales of public lands, was made, for the reduc-

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manner does the government borrow money? What are *stocks*? 257. What provision was made during the late war for borrowing money? 258. What was the amount of public debt at the close of the late war? What means were adopted for its payment? What is a *sinking fund*? 259. What were the provisions of the act of 1817?

tion of the public debt. By the application of this amount every year, together with such other portion of the yearly revenue as remained after paying the expenses of the government, the national debt has at length been entirely liquidated.

260. The following table exhibits the amount of public debt, on the first of January, in each year, from the year 1791 to the period of its extinguishment:

Year.	Amount.	Year.	Amount.
1791	\$75,463,476	1814	81,487,846
1792	77,227,924	1815	99,833,660
1793	80,352,634	1816	127,234,933
1794	78,427,404	1817	123,491,965
1795	80,352,934	1818	103,466,633
1796	83,762,172	1819	95,529,648
1797	82,064,479	1820	91,025,500
1798	79,228,529	1821	89,987,427
1799	78,408,669	1822	93,546,676
1800	82,976,294	1823	90,875,877
1801	83,038,050	1824	90,269,777
1802	80,712,632	1825	83,788,432
1803	77,054,686	1826	81,054,059
1804	86,427,120	1827	73,987,357
1805	82,312,150	1828	67,475,043
1806	72,723,270	1829	58,421,413
1807	69,218,398	1830	48,580,535
1808	65,196,317	1831	39,082,461
1809	57,023,192	1832	24,282,879
1810	53,173,217	1833	7,001,698
1811	48,005,587	1834	4,722,260
1812	45,209,737	1835	0,000,000
1813	55,962,827		

261. Only nine years ago, our national debt was \$81,000,000. In 1816 the interest alone amounted to \$7,000,000. In 1826, to almost \$4,000,000. Since the

260. What was the national debt in 1791? In 1800? In 1812? In 1816? In 1825? In 1835? 261. What amount has been paid within

beginning of that year, we have paid off, including interest, very nearly \$100,000,000, over and above the current expenses of the government.

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## CHAPTER XIII.

### *Of Commerce.*

262. *Commerce* signifies a mutual change of goods, productions, or property of any kind, between nations or individuals, either by barter, or by purchase and sale. When we speak of the commerce of a nation, we have reference to its trade with other nations.

263. Congress has power, by the constitution, "to regulate commerce with foreign nations, and among the several states, and with the Indian tribes." The propriety of vesting this power in congress is plain: its exercise by the several states might have produced a different system in each state, and caused mutual jealousies, rivalries and restrictions, which could be prevented only by a common superior power. The general power of congress to regulate commerce, is not restricted to the mere buying and selling, or exchanging of commodities; but it extends to navigation by vessels exclusively employed in transporting passengers, and to every species of commercial intercourse with foreign nations, and among the several states, and with the Indian tribes.

264. *Navigation* is the art or practice of conducting or carrying a ship from one port to another, and implies whatever relates to traversing the sea in ships. In pursuance of the power to regulate commerce, congress has

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the last nine years? 262. What is *commerce*? 263. To what objects does this power of congress extend? Why might not the several states exercise this power? 264. What is *navigation*? By what means does congress encourage domestic navigation? How is this

enacted laws conferring privileges upon ships built and owned in the United States, in order to encourage domestic navigation. This is done by imposing higher duties of tonnage and impost upon foreign vessels, and goods imported therein, than those required to be paid upon vessels of the United States, and goods imported in them. These duties are called *discriminating duties*, as the law discriminates, or makes a distinction between foreign and domestic navigation, giving a preference to the latter.

265. Vessels of the United States, to be entitled to the privileges enjoyed by such ships or vessels, must be *registered* pursuant to the laws of the United States. After the admeasurement of a vessel by a surveyor to ascertain her tonnage, the collector, records or registers in a book kept for that purpose, the names of the vessel and the port to which she belongs, her burthen, the year, and the name of the place in which she was built. A certificate of such record or registry is then given by the collector of the district to the owner or commander of the vessel, who is required to give a bond with sureties, that the certificate of such registry shall be used only for the vessel for which it is granted. The law provides, that if a certificate of registry be fraudulently used for any vessel not entitled to the benefit thereof, such vessel shall be forfeited to the United States.

266. The master of a vessel departing from the United States, and bound to a foreign port, is required to deliver to the collector of the district, a manifest of all the cargo on board, and its value, by him subscribed and sworn to be true; upon which the collector grants a clearance for such vessel. A *clearance* is a certificate stating that the commander has cleared his vessel according to law.

267. Every vessel of the United States going to a foreign country, shall, at the request of the master, be furnished with a passport, the form of which is to be prepared

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privilege conferred? What are these duties called? Why? 265. How do vessels become entitled to this privilege? How are vessels registered? 266. What must a master of a vessel do to be entitled to a clearance? What is a *clearance*? 267. What is required of ves-

by the secretary of state, and approved by the president. A *passport*, as applied to navigation, is a license or writing granted by the proper authority of a country to navigate in some particular sea without hinderance. It contains the name of the vessel and that of the master, her tonnage and the number of her crew, certifying that she belongs to the subjects of a particular state, and requiring all persons at peace with that state to suffer her to proceed on her voyage without interruption. A passport is likewise a license for importing or exporting goods without paying duties.

268. Passenger vessels are not permitted to carry a greater number of passengers than two for every five tons of their burthen. If the master or other person on board of a vessel of the United States, shall take on board at a foreign place, or bring into the United States; or if he shall transport from the United States to a foreign place, a greater number of passengers than two for every five tons of such vessel, according to the custom house measurement, he shall forfeit and pay one hundred and fifty dollars for every passenger above the number prescribed. If the number of passengers shall exceed such number by twenty, the vessel shall be forfeited to the United States. The master or captain of a vessel is required to report to the collector a list or manifest of all the passengers, designating their age, sex and occupation; the country to which they belong, and of which they intend to become residents; and the number, if any, that have died on the voyage.

269. None but citizens or persons of color, natives of the United States, may be employed on board a vessel of the United States. If the commander of a vessel employ any other than such persons on board his vessel, he shall forfeit and pay one thousand dollars for each person so employed; and the master of every vessel bound to a

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sels departing from the United States? What is a *passport*? What does it contain? 268. What restrictions are imposed upon passenger vessels? What penalty or forfeiture is annexed? What report is the master required to make? 269. What persons only may be



foreign place, or every vessel of the burthen of one hundred and fifty tons or upwards, bound to a port in any other than an adjoining state, is required to make a written or printed agreement with every seaman or mariner which shall be employed on such vessel.

270. Every vessel of the burthen of one hundred and fifty tons or upwards, navigated by one or more persons, and bound on a voyage beyond the limits of the United States, and all merchant vessels of the burthen of seventy five tons or upwards, navigated by six persons or more, and bound to the West Indies, shall be provided with a chest of medicines accompanied by directions for administering the same. Vessels crossing the Atlantic ocean, shall have on board at least sixty gallons of water, one hundred pounds of salted meat, and one hundred pounds of wholesome ship bread, for each person on board.

271. A fund is provided for the relief of sick and disabled seamen, by requiring the master or owner of every vessel of the United States, before such vessel shall be admitted to entry, to pay to the collector, at the rate of twenty cents a month for every seaman employed on board; which sum he may retain out of their wages. The fund thus provided, is administered by such persons as the president of the United States shall appoint for the purpose.

272. The register, clearance and other papers, granted by the officers of the customs to a *foreign vessel*, at her departure from the port from which she shall have arrived, shall, previously to her entry in a port of the United States, be produced to the collector with whom the entry is to be made. And it is the duty of the master, within forty-eight hours after such entry, to deposite such papers with the consul or vice consul of the nation to which the vessel belongs; and to deliver to the collector the certifi-

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employed as seamen on board American merchant vessels? 270. What regulations are made for the support of persons on board vessels? 271. How are sick and disabled seamen provided for? How is this fund raised? By whom administered? 272. What is required of foreign vessels previously to their entry? To whom are the papers delivered? What is delivered to the collector? What

rate of the consul or vice consul, that the papers have been so deposited. Any master who shall fail to comply with this regulation, shall be fined in a sum not less than five hundred, and not exceeding two thousand, dollars.

273. But this regulation does not extend to the vessels of foreign nations, in whose ports American consuls are not permitted to have the custody of the register and other papers of vessels entering the ports of such nation. No foreign consul may deliver to the master of any foreign vessel, the register and other papers with him, until the master shall produce to him a clearance from the collector of the port. For a violation of this law, the consul shall be fined in a sum not less than five hundred, nor exceeding five thousand, dollars.

274. Under the power to regulate commerce with foreign nations, congress may pass embargo and quarantine laws. *Embargo*, in commerce, means a stop put to trade; or a prohibition of state, commonly on foreign ships, in time of war, to prevent their going out of port or coming in. Before the war of 1812, a law of this kind was passed, (December, 1807.) In a case tried in the district court of Massachusetts, 1808, it was objected that the act was unconstitutional; that congress had no right, under the power to regulate commerce, thus to *annihilate* it, by interdicting it entirely with foreign nations. The court decided that the act was constitutional. The power of congress relative to commercial intercourse, is sovereign, except so far as it is qualified by the restrictions expressed in the constitution.

275. *Quarantine* signifies the time during which a ship, coming from a port suspected of contagion, or of having contagious sickness on board, is forbidden to have intercourse with the place where she arrives. The term is said to be derived from the Italian *quarantina*, meaning

is the penalty for neglect? 273. What vessels are exempt from this regulation? How does the master again obtain his papers? To what penalty is the consul subject for a violation of the law? 274. What is an *embargo*? When was an embargo law passed? Has congress power to pass such a law? 275. What is the meaning of *quarantine*? By what authority are these laws enacted in this

a space of forty days, that being originally the period fixed for detaining ships in such circumstances. But the time now varies according to the exigencies of the case. Quarantines are required by the health laws of a state : and congress has enacted that all vessels, whether from a foreign port, or from another district in the United States, and all revenue officers, shall be subject to the health law of the state to whose ports such vessels are bound. And the president may direct suitable houses to be purchased or erected, in which goods may be landed from vessels subject to quarantine, at such other place in the state, as the safety of the revenue, and the observance of the health laws, may require.

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## CHAPTER XIV.

### *Commerce—continued.*

276. THE power “to regulate commerce,” as well as the power “to lay and collect duties, imposts and excises, to pay the debts and provide for the common defence and general welfare,” has, from an early period of the government, been employed in laying duties for the purpose of encouraging and protecting articles of domestic produce or manufacture. These are called *protecting duties*, as they protect or defend the domestic grower or manufacturer against injury from foreign competition.

277. Most of the manufactured goods formerly consumed in this country, were brought from abroad, where, from the superior advantages which older countries possessed for manufacturing, could they be procured at cheaper rates. But to encourage domestic or home manufactures,

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country? What may the president do for the landing of goods from vessels under quarantine?

276. Under the grant of what power are protecting duties laid? Why are they called *protecting duties*? 277. What is the object of

and to render our nation independent of foreign nations for its supplies, the policy was adopted of imposing upon foreign goods, such duties as would make their cost equal to the cost of similar goods manufactured by our own citizens; and thus providing for the latter a market at home.

278. But this policy has always received much opposition. It is objected, first, that the constitution does not authorize congress to lay duties except for purposes of revenue. The right of congress thus to protect domestic industry, is inferred from the power "to lay duties to provide for the common defence and general welfare." The term "general welfare," if it be allowed its share in the meaning of this clause of the constitution, must imply the power to lay duties to encourage domestic manufactures; especially as the general welfare is usually promoted by such encouragement. It is further argued in favor of this power, that the framers of the constitution, in providing for the regulation of commerce among foreign nations, cannot be presumed to have overlooked the object of authorizing congress to countervail the restrictions which foreign nations might impose upon our trade. The practice of the government has, from a very early period, been in accordance with this opinion.

279. A second objection to this policy is, that the duty thus imposed is an unjust tax upon the consumer, who ought to be permitted to purchase where he can obtain his supplies at the lowest prices. To this it is replied, that when any commodity is duly protected, it will be produced in greater quantities, and the facilities for manufacturing it will be increased; so that the price will ultimately be reduced to that of a similar article manufactured elsewhere. Such has uniformly been the effect of the system of protection in this country.

280. The power of congress to regulate foreign commerce, extends also to wrecks on the seas; the construc-

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these duties? 278, 279. On what grounds are these duties objected to? How are these objections answered? What has been the practice of the government on this subject? 280. To what other

tion of light houses; the placing of buoys and beacons; the removal of obstructions to navigation in creeks and rivers; and to the designation of ports of entry and delivery.

281. The power to regulate *internal commerce*, or commerce among the several states, was rendered necessary, in order to give effect to the power of regulating foreign commerce. This power was intended to prevent the levying of unjust taxes or contributions by a state, on goods imported or exported through it by another state. Other evils, which may be readily conceived, might result from the exercise of this power by the several states to regulate trade between each other.

282. Several cases have arisen involving the question, how far this power may be exercised within a state. It is not disputed that all commerce which is completely internal, and carried on between different parts of the same state, and does not extend to other states, is beyond the control of congress; while it is equally evident, that the power to regulate commerce may be exercised *within* a state. For there are waters communicating with the ocean, which penetrate the interior, passing through several states; and there are waters in and upon the boundaries of several of the states, which afford means of commercial intercourse between those states. In these cases, it is clear that the power of congress may reach the interior of a state.

283. It has been decided by the supreme court, that the acts of the legislature of New York, granting to individuals the exclusive right to navigate the waters of the state in vessels propelled by steam, were unconstitutional and void, and repugnant to the power of congress to regulate commerce, so far as they went to prohibit vessels, licensed under the laws of congress to

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objects does the power to regulate commerce extend? 281. What is meant by *internal commerce*? What is the object of the power to regulate internal commerce? 282. May this power be exercised *within* a state? 283. How far are state laws, regulating commerce,

carry on the coasting trade, from navigating the waters of New York.

284. The power to regulate commerce extends to conferring privileges upon vessels of the United States, engaged in the coasting trade and fisheries. *Coasting trade* is the trade carried on between one district and another in the United States, on the sea coast, or on navigable rivers. For the more convenient regulation of this trade, the sea coast and navigable rivers of the United States are divided into three great districts; and all vessels of twenty tons and upwards, being enrolled according to law, and having a license, are entitled to the privileges of vessels employed in the coasting trade or fisheries. Vessels of less burthen, having only a license, are entitled to the same privileges. No vessel enrolled or licensed for this trade, is permitted to proceed on a foreign voyage, without having given up her enrolment and license, and been registered conformably to the laws regulating vessels employed in foreign trade. If a vessel perform a foreign voyage without complying with this regulation, such vessel, with all her furniture, and goods imported therein, becomes liable to seizure and forfeiture.

285. The power of congress to regulate *trade with the Indian tribes*, extends to tribes within, as well as without, the boundaries of the United States, or any particular state. It has been a subject of dispute, whether the Indian tribes were to be regarded as *foreign nations* in their relations to the United States. It has, however, been decided, that they are not recognized as such by the constitution: but they are to be considered as domestic, *dependent* nations, in a state of pupillage to the general government, and holding their territory by right of occupancy. This right of the Indians to their lands is ac-

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void? 284. What is the *coasting trade*? How are the sea coast and navigable rivers of the United States divided? What is necessary to entitle vessels to the privileges of the coasting trade? Under what restrictions are coasting vessels permitted to proceed on a foreign voyage? What is the penalty for not complying with this provision? 285. What relation do the Indian tribes bear towards the United States? How do they hold their territory? 286. How

knowledge in the treaties made with them from time to time. By these treaties, the Indians place themselves under the protection of the general government, which guaranties to them the peaceable possession of their lands not ceded to the United States.

285. But intercourse with the Indian tribes, is subject to legislative regulation. The president, by and with the advice and consent of the senate, is authorized to appoint an agent to each of the several Indian nations, to perform such duties as shall be enjoined on him; and for the faithful performance of these duties, he shall give bonds in the sum of ten thousand dollars. The salaries of these agents are, from \$1200 to \$1800 a year, each.

287. The president is required also to cause the boundary line between the Indian territory and the United States to be ascertained and marked. To promote civilization among them, and to secure the continuation of their friendship, the president may furnish them with domestic animals and implements of husbandry, and with goods or money, as he shall judge proper: but the amount of such presents may not exceed fifteen thousand dollars a year. He may also employ capable persons of good moral character to instruct them in agriculture, and their children in reading, writing and arithmetic, at an expense not exceeding ten thousand dollars.

288. If any Indian shall enter into any state or territory, and commit any trespass, murder, or other outrages upon citizens of the United States, satisfaction must be made by the tribe to which such Indian belongs, within one year, for the injury committed. If such tribe neglect or refuse to make satisfaction, the facts are reported to the president, that the necessary steps may be taken to obtain satisfaction: and the United States shall guaranty to the party injured, indemnification for the property destroyed; provided the injured party shall not attempt to obtain private

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is Indian intercourse regulated? How are Indian agents appointed? What salaries do they receive? 287. What are the duties and discretionary powers of the president relative to this subject? 288. What laws exist for the punishment of offences committed by In-

satisfaction or revenge, by crossing over the line of any of the Indian lands. But any Indian having so offended, may be apprehended within any state or district: and the president may deduct the sum paid for the property taken or destroyed by such Indian, from the annual stipend which the United States are bound to pay the tribe to which such Indian shall belong.

289. If a citizen or resident of a state or territory shall make a settlement on the lands of any Indian tribe; or if he shall survey, or attempt to survey, such lands, or designate boundaries, by marking trees, or otherwise, the offender shall forfeit a sum not exceeding one thousand dollars, and suffer imprisonment not exceeding one year. The president may take such measures, and employ such force, as he may deem necessary to remove from such lands any person who shall have made a settlement thereon.

290. If such person shall commit murder, by killing any Indian on Indian territory, he shall, if convicted thereof, suffer death. If any citizen of the United States shall commit any trespass within Indian territory, he shall be liable to punishment, by fine and imprisonment, in proportion to the magnitude of the offence.

291. The agents and superintendents of Indian affairs, may, under the direction of the president, grant to citizens of the United States, but to no other person, licenses to trade with the Indian tribes, taking bonds, with sureties, for the due observance of the laws regulating trade with the Indian tribes. Any person who shall attempt to reside in any town or hunting camp of any tribe, as a trader without license, shall forfeit the merchandize found in his possession, or offered for sale, and shall be liable to a fine and imprisonment. No citizen shall buy or receive, of any Indian, by way of trade or barter, a gun or

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dians against citizens of the United States? 289. How are citizens of the United States prohibited from intruding upon Indian lands? 290. What is the penalty for killing an Indian or committing trespass on Indian territory? 291. What regulations exist respecting licenses to trade with the Indians?



other article used in hunting, instrument of husbandry, or article of clothing, except furs or skins; nor shall he buy a horse within the Indian territory, without special license for that purpose.

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## CHAPTER XV.

### *Naturalization of Aliens.*

292. THE power of congress next enumerated, is the power "to establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies, throughout the United States." But while the constitution provides for naturalizing aliens, it does not define the character either of citizens or of aliens. In the absence of such definition, reference must be had to the English common law. In the United States, an *alien* may be defined to be a person born out of the jurisdiction of the country, and not having acquired the rights of naturalization. To this rule there is, however, an exception. In accordance with the principle of the English law, the right of citizenship is given by the act of 1802, to children born out of the jurisdiction of the United States, of persons who are citizens of the United States: such, for instance, are the children of public ministers born during the residence of their parents in a foreign country.

293. By the adoption of the constitution, the citizens of each state were made citizens of the United States; for all who were not *native citizens*, or citizens born within the United States, acquired the rights of *naturalized citizens*, by assuming allegiance to the government. Aliens cannot acquire a title to real estate. Should they

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292. What power has congress respecting naturalization? What is an *alien*? 293. What effect had the adoption of the constitution upon aliens? What are their abilities and disabilities as to holding

purchase it, it is forfeited to the state whenever it is ascertained by proper examination to be the property of an alien. But aliens sometimes do own real property, holding it in the name of a friend. They may own and transmit personal or moveable property in the same manner as citizens; and they may bring suits for the recovery and protection of such property.

294. In pursuance of the power granted by the constitution, congress has provided a mode of removing the disabilities of aliens. By complying with the terms of these provisions, every alien may obtain the privileges of natural born citizens. *Naturalization*, is the investing of an alien with the rights and privileges of a native subject or citizen.

295. An alien, to become a citizen of the United States, shall declare on oath, before a court of some one of the states, or a circuit court of the United States, or before a clerk of either of said courts, *two* years before his admission, that it was, bona fide, his intention to become a citizen, and to renounce forever all allegiance to any foreign prince, state or sovereignty, and particularly by name that whereof he is a citizen or subject. He shall, at the time of his application, declare on oath, before one of the said courts, that he will support the constitution of the United States.

296. The court admitting such alien, shall be satisfied that he has resided within the United States five years at least, and within the state or territory in which such court is at the time held, one year at least; and that, during that time, he has behaved as a man of good moral character, attached to the principles of the constitution of the United States, and well disposed to the good order and happiness of the same. But the oath of the applicant shall not be allowed to prove his residence.

297. By the act of May 26, 1824, an alien minor may be admitted a citizen at any time after he shall have arri-

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property? 294. What is *naturalization*? 295. What declaration, on oath, must an alien make to become a citizen? Before what court? 296. What is further required of the applicant? 297. What is pro-

ved at the age of twenty-one years, if he shall have resided five years in the United States, including at least three years of his minority, without having made a previous declaration of his intention to become a citizen. It is sufficient that the declaration be made at the time of his admission: provided that he then declare on oath, and prove to the satisfaction of the court, that, for three years next preceding, it has been his intention to become a citizen, and that he shall, in all other respects, comply with the laws in regard to naturalization.

298. By the act of May 24, 1828, an alien who resided in the United States before the 18th June, 1812, and continues to reside here, need not previously make the declaration of his intention to become a citizen: provided he shall prove to the satisfaction of the court, that he was residing in the United States, before the 18th June, 1812, and that he has continued to reside here; and provided also that his residence shall be proved by the oath or affidavit of citizens of the United States. If the alien shall have arrived after the peace of 1815, his residence must have been continued for five years next preceding his admission, without having been, at any time during the five years, out of the territory of the United States.

299. Children of persons duly naturalized, being minors at that time, shall, if dwelling in the United States, be deemed citizens. And if any alien shall die after his declaration, and before his actual admission, his widow and children shall be deemed citizens.

300. A previous residence of five years is in all cases required to become citizens; the reason of which is obvious. It is not to be presumed that strangers can have, upon their arrival among us, that knowledge of our political institutions, and that attachment to them, which are necessary to qualify them for discharging the duties of citizens. Such is the nature of our government, that it

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vided, by the act of 1824, for naturalizing alien minors? 268. What is provided by the act of 1828? 299. Under what circumstances are children of aliens deemed citizens? 300. Why is a previous residence of five years in all cases required?

can be safe only in the hands of those who understand and love the principles on which it is founded. And yet, important as this knowledge is, a large portion even of our native citizens, are little acquainted with the free institutions of their own country.

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## CHAPTER XVI.

### *Bankruptcy.*

301. ANOTHER of the powers granted to congress, is the power "to establish uniform laws on the subject of bankruptcies, throughout the United States." The word *bankrupt* is derived from *bancus*, a bench, and *ruptus*, broken, in allusion to the benches formerly used by money lenders in Italy, which were broken or destroyed in case of failure. This word generally means an insolvent person, but, more strictly, an insolvent merchant. A distinction has been made by some between insolvent laws and bankrupt laws; the latter providing for discharging the debtor from his contracts; the former merely liberating his person.

302. This power is for several reasons entrusted to congress: (1.) To preserve uniformity and equality of rights and remedies among the citizens of all the states. Much inconvenience had arisen from the dissimilar and conflicting laws of different states, and from the refusal of some states to act on the subject. (2.) Because creditors in one state are not bound by the bankrupt laws of another: so that a debtor, though released from his debts in one state, is still liable to be harassed by new suits whenever he removes without the state boundaries. (3.) This power in the general government is essential, also, to

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301. What is the origin and meaning of the word *bankrupt*?

302. For what reasons was the power to pass bankrupt laws given

maintain commercial credit and intercourse with foreign nations.

303. As the constitution prohibits the states from passing "laws impairing the obligation of contracts," the right of a state to pass insolvent or bankrupt laws, is questioned by many, who maintain that such laws impair the obligation of contracts; and that, as the power is given to congress to establish a uniform system of bankruptcy, the power to make insolvent laws is thereby taken away from the states.

304. By the decisions which have been made by the supreme court of the United States, the following points appear to have been settled: (1.) That a state has no authority to pass an insolvent or bankrupt law to discharge a debtor from the obligation of a contract made before such law was passed. But if the law existed before a contract was made, it did not, in the sense of the constitution, impair the obligation of that contract, because parties are presumed to have reference to the existing laws of the country when such contract is made. (2.) That until congress establish a uniform system of bankruptcy, a state may pass such insolvent laws as do not impair the obligation of contracts. (3.) That a discharge is valid only between the citizens of the state by which such law was passed; and that a debtor, if he should remove into another state, and there take the benefit of an insolvent law, does not discharge himself from debts contracted before his removal.

305. In view of the judicial decisions on this subject, Chancellor Kent observes: "It remains yet to be settled, whether it be lawful for a state to pass an insolvent law, which shall be effectual to discharge the debtor from a debt contracted after the passing of the act, and within the state making the law. The general language of the court would seem to reach even this case; but the facts

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to congress? 303. Do the states possess the power of passing insolvent or bankrupt laws? On what ground is this power disputed? 304. What points, in relation to this question, have been settled by the decisions of the supreme court? 305. What opinion is expres-

in the cases decided do not cover this ground, and are not authority to that extent."

306. Congress has heretofore, (April, 1800,) exercised its power to pass bankrupt laws; but this law was either repealed, or permitted to expire by its own limitation, in December, 1803. At present there is no uniform law on the subject. The general object of a bankrupt law is to relieve unfortunate traders, and, at the same time, to secure the application of their effects to the payment of their debts.

## CHAPTER XVII.

### *Money—Weights and Measures*

307. CONGRESS has the sole power "to coin money, regulate the value thereof, and of foreign coin." To produce uniformity of value in coin throughout the union, this power is exclusively given to congress, as its exercise by the states would cause much embarrassment, vexation and fraud, in consequence of the varying standards that would be established by the different states.

308. *Mint* signifies a place where money is coined by public authority. The word *coin*, (French,) means a stamp; or money stamped with a legal impression. Coining, until the last two or three centuries, was very imperfectly performed, by placing the blank piece of money between two dies, or steel punches, containing the design of the coin, and striking upon the upper one with a hammer. The imperfection of this hammer-money was caused by the uncertainty of placing the two dies

sed, and by whom, in view of these decisions? 306. Has congress ever exercised this power? Does such law now exist? What is the general object of a bankrupt law?

207. Why is the power to coin money, &c. given to congress?

308. What is the meaning of *mint*? Of *coin*? Describe the process

exactly over each other, and the improbability of a man's being able to strike a blow with such force as to make all parts of the impression equally perfect. The coining press, or mill, now used, was invented in France. The bars or ingots of gold or silver, after having been cast, are taken out of the moulds, and their surfaces cleaned. They are then flattened by rollers, and reduced to the proper thickness to suit the species of money to be coined. The plates are next cut out into round pieces by a circular steel punch of the size of the coin, which is driven downward by a powerful screw, and passes through a corresponding circular hole, carrying before it the piece of metal which is punched out. These pieces are brought to the standard weight, if necessary, by filing or rasping: the deficient pieces, together with the corners and pieces of the plates, are returned to the melter. The inscription or impression on the edge is made by rolling the coin, edgewise, between two plates of steel containing the engraved edging. The stamping is performed by pressing the piece with a powerful screw, between two steel dies, on which the figure to be impressed is engraved.

309. The officers and persons who conduct the business of the mint, are a director, a treasurer, an assayer, a chief coiner, an engraver, a melter and refiner. The *director*, with the approbation of the president of the United States, employs the necessary clerks and workmen, and has the chief management of the business of the mint. The *treasurer* receives the metals brought to be coined, and gives receipts for the same. The *assayer* receives from the treasurer a sufficient number of grains of every parcel, and *assays* them. This is a process to ascertain the quantity of gold or silver in the alloy. *Alloy* is a composition formed by the combination of two or more metals. To alloy means to mix a metal of less with one of more value. The baser metals are used to alloy gold and silver coins, to prevent their loss by wear. The

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of coining money? 309. What officers and persons are employed in the mint? What is the business of a director? Of a treasurer? Of an assayer? Of a chief coiner? Of an engraver? Of a melter?

treasurer delivers the assayed metals to the chief coiner, from whom he receives them when struck, and pays or delivers them to the persons to whom they are to be delivered. He also keeps all moneys for the support of the mint, and pays them out upon warrants signed by the director. The *chief coiner* causes to be coined all metals received by him for that purpose. The *engraver* sinks and prepares the dies with the proper devices and inscriptions. The *melter and refiner* takes charge of all copper, or silver and gold bullion delivered out by the treasurer after it has been assayed, and reduces them into bars or ingots fit for the rolling mills. *Bullion* is uncoined gold or silver in plates, bars or masses.

310. The proportional value of gold to silver in all coins by law current as money in the United States, fixed by act of congress of April, 1792, was as fifteen to one: that is to say, fifteen pounds of pure silver were equal in value to one pound of pure gold. By the same act, the standard for gold coin was eleven parts of pure gold to one part of alloy, the alloy to be composed of silver and copper, not exceeding one half silver. The standard for silver coins was one thousand four hundred and eighty-five parts of silver, to one hundred and seventy-five parts of alloy, the alloy to be wholly of copper.

311. By the acts of 1834, the proportional and standard values were changed. The value of gold coins of the United States, at present, is as sixteen to one of silver; the comparative value having been increased about six and a half per cent. The eagle of the old coinage, consequently passes for about \$10,66; and a new eagle contains only a quantity of gold that was formerly valued at \$9,34. Foreign gold coins are made lawful, according to their real value, by the same standard with our own. The dollars of Spain, Mexico, and the South

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and refiner? What is *alloy*? What is *bullion*? 310. What was formerly the proportional value of gold to silver in coins current as money in the United States? 311. What is the present proportional value of gold to silver? How is the value of foreign gold and



American states, are lawful at the same value with our own dollars. The five franc pieces of France, are lawful at 93 cents each.

312. With the power of coining money, congress necessarily possesses power "to provide for the punishment of *counterfeiting* the public securities and current coin of the United States;" for without this power, the power to coin money would be unavailing.

313. The counterfeiting or debasing of current coin, is deemed an aggravated offence, and is punished with heavy penalties. If an officer or person employed at the mint of the United States shall debase, or make worse, any gold or silver coin, as to the proportion of fine gold or fine silver, or shall make the same of less weight or value than it ought to be, with a fraudulent intent, or shall embezzle any of the metals left at the mint to be coined, the offender shall be guilty of felony, and imprisoned at hard labor, not less than one year, nor more than ten years, and fined not exceeding ten thousand dollars.

314. If a person shall falsely make, counterfeit, or fraudulently pass, any coin in resemblance of the gold or silver coin of the United States, he shall be liable to a fine not exceeding five thousand dollars, and imprisonment at hard labor, not exceeding ten years, according to the aggravation of the offence. For counterfeiting copper coin, he shall be liable to a fine not exceeding one thousand dollars, and imprisonment not exceeding three years. For falsifying, or lightening, for the sake of gain, any gold or silver coin, in actual use as money, imprisonment not exceeding two years, and fine not exceeding two thousand dollars.

315. If a person shall counterfeit, or aid in falsely making, a bill or order on the bank of the United States, or pass, or attempt to pass the same, he shall be imprisoned

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silver established by law? 312. Where is the power to punish the counterfeiting of coin &c. vested? 313. What is the punishment for debasing coin at the mint? 314. What for counterfeiting, falsifying or lightening gold and silver coin? For counterfeiting copper coin? 315. What is the penalty for counterfeiting United

not less than three, nor more than ten years, and fined not exceeding five thousand dollars. If a person shall engrave, or have in his possession an engraved plate, with the intent of using the same in counterfeiting notes of the said bank; or if he shall have in his possession blank notes or bills to be used for this purpose, he shall be imprisoned not exceeding five years, and fined not exceeding one thousand dollars.

316. Fines and penalties similar to the above, are inflicted upon persons who shall counterfeit or forge any public security, treasury note, deed or power of attorney, certificate of public stock, or other writing relative to the business of the United States.

317. Although congress has the power "to fix the standard of *weights and measures*;" and, though it would seem necessary that this power should be exercised exclusively by congress, in order to produce uniformity throughout the United States; that body has not yet legislated on the subject. Each state, therefore, retains the right to adopt and regulate its own standard.

## CHAPTER XVIII.

### *Promotion of Science.—Copy Rights and Patents*

318. Among the powers delegated to congress, is the power "to promote the progress of science and useful arts, by securing, for limited times, to authors and inventors, the exclusive right of their respective writings and discoveries." This power did not exist under the confederation; although its utility has never been disputed. The right of property of authors and inventors in their works.

States bank notes? 316. What are the penalties for counterfeiting United States securities, notes, &c. 317. How is the standard of weights and measures regulated?

318. What is the granting of copy rights and patents intended to

had, before the revolution, been decided to be a common law right, and had been secured to them, for limited times, by acts of parliament. This provision seems to be in accordance with the dictates, as well of policy as of justice. For, without an appropriate reward, there would be little to induce authors to prepare elaborate works for the public. While, therefore, a profit is secured to the inventor, the public is no less benefited by the disclosure of the secrets of the discovery.

319. By acts of congress, the right of the monopoly is limited to a period of fourteen years. The term of a copy right, which was formerly fixed at this period, was, in 1831, extended to twenty-eight years. This provision is deemed a sufficient encouragement to genius. Some of the states, prior to the adoption of the constitution, had, by legislative acts, favored certain discoveries; but as the effect of these laws was confined to the limits of a single state, and as the authors and inventors were subjected to the varying laws of the different states, the privileges conferred by the state laws were of little value.

320. To secure the exclusive right *to print and sell any book, map or chart*, the author or proprietor is required to deposit a printed copy of the title thereof, in the clerk's office of the district court where the author or proprietor resides. The clerk records the title in a book kept for that purpose, and gives to the author, under the seal of the court, a copy of the record. For which record, the clerk shall receive fifty cents, and the like sum for every copy, under seal, given to the author or proprietor, or his assigns.

321. The author or proprietor is required, within three months after the publication of the book, map or chart, to deliver a copy of the same to the clerk of the district court. The clerk is required, every year, to transmit to the secretary of state of the United States, a list of all copy rights deposited in his office. The author or proprietor

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promote? 319. For how long a term is each granted? How was the power to grant patent and copy rights exercised before the constitution was adopted? 320, 321. How is a copy right obtained?

must also cause to be printed on the title page, or page immediately following, of every copy of the said book, if it be a book, or if it be a map or chart, on the face thereof, the following words: "Entered according to act of congress, in the year                    by                    in the clerk's office of the district court of                   ."

322. At the expiration of the term for which a copy right shall have been secured, such right shall be continued for the further term of fourteen years, provided that the title of the work be again recorded, and that all other regulations of the law with regard to original copy rights be complied with, within six months before the expiration of the first term. In all cases of renewal of a copy right, the author or proprietor must, within two months after the renewal, cause a copy of the record to be published in one or more newspapers printed in the United States, for the space of four weeks.

323. If any person, after the title of a book, map, chart or engraving, shall have been duly recorded and published, shall cause the same to be printed or published, without the consent of the author in writing, signed in the presence of two or more witnesses, the offender shall forfeit every copy of the same, to the author or proprietor: and he shall further forfeit, if it be a book, fifty cents, or if it be a map, chart or engraving, one dollar, for every sheet found in his possession, or printed, or exposed to sale; one half thereof to the proprietor who shall sue for the same, and the other half to the United States. Any person who shall print or publish the manuscript of an author or proprietor, without his consent, as before mentioned, shall be liable to the author for all damages sustained by the injury.

324. If any person shall print or publish any book, and print therein, that the same has been entered according to act of congress, without having legally acquired a copy right, he shall forfeit one hundred dollars.

322. In what manner is the renewal of a copy right effected?

323. What are the penalties for infringing a copy right? 324. What is the penalty for falsely printing in the book that the title has been

325. To secure an exclusive right to *make, use and sell any new and useful invention*, the inventor must allege that he has invented a new and useful art, machine or manufacture, not known or used before the application, and must present a petition to the secretary of state, for an exclusive property in the same. The secretary of state then causes letters patent to be made out, in the name of the United States, signed by the president, reciting the allegations and suggestions of the petition, giving a short description of the invention or discovery, and granting to the petitioner, for a term not exceeding fourteen years, the sole right to make and vend the said invention or discovery. These letters patent are delivered to the attorney general of the United States to be examined; who, within fifteen days, if he finds them conformable to the law, certifies to the same, at the foot thereof, and returns them to the secretary of state. The secretary of state presents the letters patent thus signed, and causes the seal of the United States to be affixed to them. They are then recorded in a book for that purpose, in the office of the secretary of state, and delivered to the patentee, or his order.

326. Patents may, in a similar manner, be obtained by any person for an *improvement* in an invention; but he may not use the original invention, nor may the original inventor use the improvement. When the patent is for an improvement, the nature and extent of the same must be stated in the specification.

327. Every inventor, before he presents his petition to the secretary of state, must pay into the treasury thirty dollars. He must also swear or affirm, that he verily believes that he is the true discoverer of the art or improvement for which he asks a patent; and that the same has not, to his knowledge, been known or used, either in this or any other country. If it shall appear, that such inven-

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entered? 325. What is required of an inventor to secure a patent right? How are letters patent made out? 326. How are patents for *improvements* obtained? 327. How much is paid for a patent right? What oath is required of an applicant? 328. What is the

tion had been known or used previously to his application for a patent, the patent shall be void.

328. Any person who shall make, use or sell any invention, the right of which is secured to a patentee, shall forfeit a sum equal to three times the actual damage sustained by the patentee, by reason of the offence. If, however, it shall be proved, that there was in the specification any false statement, made to deceive the public, or that the thing thus secured was not first discovered by the patentee, or that the patent was surreptitiously obtained for the discovery of another person, judgment shall be rendered for the defendant. Prosecution for the violation of patents and copy rights must be made in the circuit court of the United States.

329. Patents and copy rights may be assigned and transferred to others; and the assignees have all the rights secured to the original parties. Rights may be obtained by the heirs of inventors who have died before such rights were obtained.

## CHAPTER XIX.

### *Piracy—Felonies on the High Seas, &c.*

330. The power "to punish piracies and felonies committed on the high seas, and offences against the law of nations," is, from its very nature, vested exclusively in congress. *Piracy* is the crime of robbery and depredation committed upon the high seas. It is an offence against the universal law of society, a pirate being hostile to the human race; and as he has renounced all the benefits of society and government, by declaring war against all mankind, all mankind must declare war against him.

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penalty for a violation of a patent right? 329. Are patents and copy rights transferrable? 330. Where is the power to punish

As it is an offence against the law of nations, every nation has a right to attack and exterminate pirates, without any declaration of war.

331. By statutes, both in England and in the United States, certain offences are made piracy. By the laws of the United States, if a person commit, upon the high seas, out of the jurisdiction of a state, murder or robbery, or any other offence which, if committed in the body of a county, would, by the laws of the United States, be punishable with death. It is declared, further, that if a captain or mariner of any vessel shall feloniously run away with the vessel, or any goods or merchandize to the value of fifty dollars, or shall yield up a vessel voluntarily to pirates; or if a seaman shall lay violent hands upon his commander, to prevent him from defending the ship or goods committed to his trust, or shall make a revolt in the ship; every such offender shall be adjudged a pirate and felon, and be punishable with death.

332. The African *slave trade*, which was tolerated for many years after the constitution was adopted, was, in 1820, declared piracy. If a citizen of the United States, being of the crew of any vessel owned in whole, or in part, by a citizen of the United States, shall be engaged in the foreign slave trade, he shall be adjudged a pirate, and suffer death.

333. The transportation of slaves *from* the United States, by citizens of the United States, to any foreign country, was prohibited by acts of March 1794, and May 1800. But as the importation of slaves was authorized by the constitution until 1808, no law prohibiting their importation, could be passed by congress, to take effect before that time.

334. By the law of March, 1807, it was prohibited under severe penalties, to import slaves into the United States, after the first of January, 1808. In 1818, to pre-

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piracy vested? What is *piracy*? 331. What acts are declared piracy by the laws of the United States? 332. When was the slave trade declared piracy? 333. When were the exportation and importation of slaves respectively prohibited? 334. What is provided

vent all concern in the trade, on the part of our citizens; they were forbidden to carry slaves on freight, or from one port to another of the same foreign empire, as well as from one foreign country to another. The act of March, 1819, went further, and authorized national armed vessels to be sent to the west of Africa, to stop the slave trade, so far as citizens or residents of the United States were engaged in it; and their vessels and effects were made liable to be seized and confiscated. The act of May, 1820, went still further, and declared, that if any vessel, armed or navigated for or on behalf of a citizen of the United States, should land on a foreign shore, and seize a negro or mulatto, with intent to make him a slave, or should decoy, or forcibly bring such negro on board such vessel, he should be adjudged a pirate, and should be punishable with death.

335. If a person, upon the high seas, within the admiralty jurisdiction of the United States, and out of the jurisdiction of a particular state, shall murder, or otherwise so injure any other person, that he shall afterwards die upon the land, the offender shall suffer death. If a person shall wilfully destroy, or aid in destroying, a vessel of war of the United States on the high seas; or if, being the owner of such vessel, he shall corruptly cast away, or aid in destroying the same, with a design to prejudice any person that has underwritten a policy of insurance, he shall suffer death.

336. For maliciously attacking a vessel with intent to plunder the same, the offender shall be punished by a fine not exceeding five thousand dollars, and imprisonment not exceeding ten years. Numerous other crimes committed within admiralty jurisdiction, are punishable by fine and imprisonment, in proportion to the aggravation of the offence.

337. If a person, within a fort, arsenal, navy yard, or magazine, shall burn a dwelling house, store, barn or

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by the several acts of 1807, 1818, 1819, 1820? 335. What offences, upon the high seas, within admiralty jurisdiction, are punishable with death? 336. What offences by fine and imprisonment? 337.



other building, he shall be punishable with death. There are other crimes which, if committed within any territory over which the United States have jurisdiction, are punishable with fine and imprisonment. All offences enumerated in this chapter must be tried in courts of the United States.

338. *Offences against the law of nations*, are, besides piracy, violations of safe conducts or passports, and infringements of the rights of ambassadors and other foreign ministers. A safe conduct contains a pledge of the public faith, that it shall be duly respected; and the observance of this duty is essential to the character of the government which grants it. An ambassador cannot be made answerable in a court of justice. Any writ or process issued against an ambassador, is void. If he commit an offence he must be sent home, to be punished by the laws of his own country.

339. The statute law of the United States provides, in furthering the general sanction of the public law, that persons who violate passports, shall be imprisoned, not exceeding three years, and fined at the discretion of the court. The like punishment is inflicted upon persons who infringe the law of nations by offering violence to public ministers, by being concerned in prosecuting or arresting them. This is an offence highly injurious to a free and liberal intercourse between different governments, and mischievous in its consequences to a nation; as it tends to provoke the sovereign whom the minister represents, and to bring upon the country in which he resides, the calamity of war.

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What offence on land, within U. S. jurisdiction, is punished with death? In what courts are these offences tried? 338. What are offences against the law of nations? What does a passport or safe conduct contain? What privilege has an ambassador? 339. How are these offences punished?

## CHAPTER XX.

*Of War.—Letters of Marque and Reprisal—Captures—Army and Navy.*

340. CONGRESS has exclusive power “to declare war, grant letters of marque and reprisal, and make rules concerning captures on land and water.” That self-preservation, or the right of self-defence, is the first law of nature, is a principle that has received the common assent of mankind. If this principle be a just one, it is the right of every nation to adopt all necessary regulations to resist the aggressions of other nations. Upon this principle, the power has been given to congress to declare war. A just defence, or making use of force against any power that attacks a nation or its privileges, is *defensive* war. To attain justice by force, if it cannot be otherwise obtained, or to pursue our right by force of arms, is *offensive* war.

341. But there are cases which, according to the law of nations, constitute justifiable causes of war, when neither good policy, nor a regard for the national honor, requires such a measure. War is at all times attended with great evils; and the dictates, both of wisdom and humanity, forbid a recourse to war, except in extreme cases. The true honor and dignity of a nation are not most effectually sustained by immediate resort to arms upon every occasion of real injury.

342. The ancient practice of formally communicating to the enemy a declaration of war, before hostilities are commenced, is not in use. Such declaration is now made only to the nation that proclaims it. The power to declare war is, in some countries, exercised by the king. In the United States, it is more properly, as well as more safely, entrusted to congress.

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340. Where is the power to declare war, &c. vested? Upon what principle is the right of resistance founded? What is *defensive* war? What is *offensive* war? 341. In what cases only, if any, should a nation resort to war? 342. How is a declaration of war

343. The power of issuing *letters of marque and reprisal*, is also given to congress. *Marque* signifies passing the frontier; *reprisal*, the taking in return. Letters of marque and reprisal are given to authorize the subjects of a nation who have been injured by those of another nation, to seize the bodies or goods of the citizens of such offending nation, wheresoever they may be found, until satisfaction be made. This, however, properly belongs to the government, as a single individual, were he at liberty to act as judge in his own case, might, at his own pleasure, involve the whole nation in war, in seeking to redress his private injury.

344. Connected with the power of declaring war, is the power of making *rules concerning captures*. According to the law of nations, no individual has any interest in a prize, whether made by a public or private armed vessel, but what he receives under the grant of the government. The general practice is, to distribute the proceeds of the captured property, when duly passed upon, and condemned as prize, among the captors, as a reward for bravery, and a stimulus to exertion. But the courts have no power of condemnation, until the legislative will is expressly declared.

345. The district court of the United States has cognizance of complaints in cases of capture made within the United States, or within a marine league of the coast or shore thereof. It has also exclusive cognizance of all seizures on land, and on waters other than those navigable by vessels of ten or more tons burthen, within their respective districts, or on the high seas. War gives a nation the right to take the persons, and confiscate the property of its enemy, wheresoever they may be found.

346. The power "to raise and support armies," and "to provide and maintain a navy," is a power incident to

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made? Who declares war in the United States? 343. What are *letters of marque and reprisal*? For what purpose are they granted? Why is the power to issue them given to the government? 344. What are *captures*? Whence is the right to prizes obtained? How are they generally distributed? And when? 345. Before what court are trials for prizes had? What rights does war give a na-

the power of declaring war, and of providing for the common defence of the nation; and necessarily includes the power "to make rules for the government of the land and naval forces."

347. It is the general policy of nations, in times of peace, to prepare for war. A constant preparation for self-defence is deemed the most certain means of preventing the attacks of an enemy. One of the means provided by congress for the defence and safety of the nation, is a standing army. A *standing army* is a large number of armed soldiers, kept constantly in pay, and ready for action, in peace as well as in war. The standing army of the United States consists, at present, of about six thousand men, who are distributed among the several forts and arsenals.

348. But standing armies are by many looked upon with great jealousy, as dangerous to liberty. History furnishes many instances in which nations have suffered great injury from standing armies, and have been even destroyed by them. But the distance of this continent from the powerful nations of Europe, prevents the necessity of keeping up a large and dangerous peace establishment.

349. A navy, is generally supposed to be a safer, as well as a more effective means of national defence. A *navy* means the ships of war that belong to a nation. With the exception of a few years, it has ever been the policy of the government to support an efficient navy. In 1801, congress ordered all the vessels, except thirteen, to be sold: those not directed to be kept in service in time of peace, were to be laid up. In 1805, so much of the act of 1803, as required a certain number of frigates to be kept in service, was repealed; and the president was authorized to keep in actual service in time of peace, as

tion? 346. Where is the power to raise and support armies vested?

347. Why is a preparation for self defence necessary? What is a *standing army*? How large is that of the United States? 348. How are standing armies regarded by many? 349. What other means of national defence exist? What is a *navy*? What has been the

many frigates and other vessels as might be necessary, and the remainder were to be laid up. A species of vessels, called gun boats, had been introduced, of which there were ordered to be built and purchased, during the period from the year 1803 to the year 1807, two hundred and seventy. Since that period, the navy has received due attention, and large appropriations have, from time to time, been made for its increase.

350. The strength of the navy of the United States in 1834, was as follows: 7 ships of the line, of 74 guns; 7 frigates of the first class, of 44 guns; 3 frigates of the second class, of 36 guns; 3 sloops of war, of 24 guns; 13 sloops of war, of 18 guns; and 67 schooners, of 18 guns; making, in all, 41 vessels. There were then building 5 ships of the line, of which one would carry 140 guns, and 7 frigates.

## CHAPTER XXI.

### *Of the Militia.*

351. THE surest means of national defence lies in the power of congress "to provide for calling forth the militia to execute the laws of the union, suppress insurrections, and repel invasions;" and in the power "to provide for organizing, arming and disciplining the militia; and for governing such part of them as may be employed in the service of the United States." This power the constitution gives exclusively to congress; reserving to the states, respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress.

policy of the government with regard to a navy? 350. What is the present strength of the navy of the United States?

351. What is deemed the surest means of national defence? How

352. It is doubtful whether a constitution would have been adopted that placed the military force wholly under the orders of the national rulers. To attain uniformity in the organization and discipline of the militia, it was necessary that its regulation should be entrusted to the general government. The reservation to the states of the power to appoint officers, and to train the militia, while it left still in the hands of congress all necessary power on this subject, was deemed an essential restriction, in order to guard against the usurpation and abuse of this power by the general government.

353. The president is commander-in-chief of the militia when called into the actual service of the United States: when not in actual service of the nation, the militia is commanded by the governors of the states, and subordinate officers. The president has, by law, the power to call out the militia, whenever he shall judge it to be necessary, to repel invasions, or to suppress insurrections, within the United States; and he is to be the sole judge of the existence of the emergency requiring the militia to be called into service.

354. To those who object to thus placing the militia at the disposal of the president, it must be replied, that this power is to be exercised upon sudden emergencies, and when the action of congress may not be readily obtained. Neither is it a valid objection that the power may be abused; for all powers, by whomsoever exercised, are susceptible of abuse. The responsibility of the executive to the people, and the watchfulness of their representatives, are deemed sufficient security against usurpation or tyranny.

355. The militia, when called out, are subject to the rules of war; and the law imposes a fine upon every de-

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far does the power of congress on this subject extend? 352. What is reserved to the states? Why is this division of power made? 353. When is the president commander-in-chief? Who commands the militia at other times? Who is authorized to call out the militia? On what occasions? 354. Why is this power given to the executive? 355. What persons are liable to do military duty?

delinquent, to be adjudged by a court martial composed of militia officers only, and held in the manner prescribed by the articles of war. Every free able bodied white male citizen, of the age of eighteen, and under forty-five years, is liable to do military duty, except such as are by law exempted from the same.

356. The law prescribes the manner in which the militia is to be organized, armed, disciplined and governed; and provision is also made for drafting, detaching, and calling forth the *quotas*, or shares, to be furnished by the respective states, when required by the president.

357. Persons exempted by the law of the United States are, the vice president, and all executive and judicial officers of the government of the United States; members of both houses of congress, and their respective officers; all custom-house officers, with their clerks; post officers and drivers of mail stages; ferry-men employed at ferries on post roads; all pilots and mariners; together with all other persons who may be exempted by the laws of the respective states.

358. The militia, when called into the actual service of the United States, are not considered to be in that service, until they are mustered at the place of rendezvous; until that be done, a state has a right, concurrent with the United States, to punish their delinquencies: but after the militia shall have been thus mustered into the service of the United States, their character is changed from state to national militia, and the authority of the state government over them ceases.

359. The militia is *organized*, by their formation into bodies of men, and the denomination and rank of officers, which is done by congress. Congress also prescribes the manner of *arming* the infantry, cavalry, artillery, and

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How are delinquents adjudged. 356. By what is the government, drafting, &c. of the militia prescribed? 357. What persons are exempt from duty by the laws of the United States? 358. When is the militia to be considered in the service of the United States? 359. What is meant by organizing, arming, and disciplining the militia?

other descriptions of force: as also the mode in which they shall be *disciplined*; that is, the system of exercise in which they shall be instructed.

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## CHAPTER XXII.

### *Of the Post Office.*

360. CONGRESS has power "to establish post offices and post roads." The general object of this power is to provide for facilitating the transmission of intelligence, and for promoting a free and easy intercourse among the different parts of this union.

361. A general post office was established by the colonial congress, as early as the year 1775. The laws by which it has been regulated, have been changed, from time to time, as improvements were suggested, and the increase of its business demanded. The business of the general post office is under the supervision of a post master general. This officer has, for the last few years, been considered a member of the president's cabinet; and the general post office is spoken of as being an auxiliary executive department.

362. The post master general has the direction of the affairs of the department; he has two assistants, and such clerks as may be necessary to perform the business of his office. He establishes post offices, and appoints post masters, and all other persons employed in any of the departments of the general post office, and gives instructions relative to their duties. He provides for carrying the mail on all post roads, as often as he may think proper; and he pays all the expenses of the department.

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360. What is the object of the power to establish post offices and post roads? 361. What is the chief officer of the general post office called? 362. What are his duties? 363. How are contracts



363. Contracts for the transportation of the mail, are made as follows :

The post master general gives twelve weeks previous notice, in one newspaper published at the seat of government, and in one or more in the state in which contracts are to be made for transporting the mail, that such contracts are to be made. Those who wish to engage to transport the mails on any of the routes advertised, send their proposals to the post master general, stating the lowest sum for which they will agree to carry the mail. He that proposes to carry for the least sum, has the contract.

364. The rates at which letters, newspapers, pamphlets, &c. are carried, are established by law, and are as follows :

For every letter composed of a single sheet of paper, not exceeding thirty miles, six cents : over thirty, not exceeding eighty, ten cents : over eighty, not exceeding one hundred and fifty, twelve and a half cents : over one hundred and fifty, not exceeding four hundred, eighteen cents and three fourths : over four hundred, twenty-five cents.

For every double letter, or letter composed of two pieces of paper, double those rates : for every triple letter, three times those rates ; and for every packet of four or more pieces of paper, and weighing one ounce, four times those rates ; and in proportion for all greater weights. No packet of letters transported by water mails, are charged with more than quadruple postage, unless the same contain more than four letters ; and no post master may put into the mail any packet of more than three pounds weight.

365. Every four folio pages, or eight quarto, or sixteen octavo, or twenty four duodecimo pages, or pages of less size than that of a pamphlet or magazine, are considered a sheet. The rates of postage on newspapers, pamphlets, magazines, &c. are as follows :

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made for the transportation of the mail? 364. At what rates are single letters carried by mail? Double letters? Triple letters? When a packet contains four or more pieces of paper? 365. How many printed pages are considered a sheet? What are the rates

On every newspaper carried any distance within the state, the postage is one cent : if carried over one hundred miles, and out of the state in which it is mailed, one cent and a half.

On periodical pamphlets and magazines, such as are issued in numbers at regular intervals, carried not over one hundred miles, one and a half cents a sheet : over one hundred miles, two and a half cents.

366. Any memorandum or writing on a newspaper transmitted by mail, is charged with letter postage : but the publisher of a newspaper may send a printed or written notice to a subscriber, stating the amount due on his subscription ; for which notice there shall be charged the same postage as for a newspaper.

367. The following officers are allowed to send and to receive their letters and packets free of postage :

Every post master, provided each of his letters or packets shall not exceed half an ounce in weight ; every member of congress, provided each letter or pamphlet, (except documents printed by order of congress,) shall not exceed two ounces in weight, during his attendance in any session of congress, and sixty days before and after such session ; and all the civil officers at the seat of government : and each may receive a newspaper free of postage : provided that no post master shall receive, free of postage, more than one daily newspaper, or what is equivalent thereto ; and that no member of congress shall receive newspapers, free of postage, after his privilege of franking shall have ceased. To *frank*, means to exempt a letter or packet from postage. The person entitled to this privilege, writes on the outside of the letter or packet, his name and office ; and the same is sent free.

Every printer of a newspaper may send one newspaper to every other printer of a newspaper, free of postage.

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of postage on newspapers, pamphlets, and magazines? 366. What is charged on a paper on which there is a memorandum or writing? What privilege has a publisher of a newspaper? 367. What officers may send and receive letters and packets free? and to what extent? What is it to *frank* a letter or packet? What privilege

368. At the end of every quarter, every post master is required to publish in a newspaper, at or nearest the place of his residence, for three successive weeks, a list of all the letters remaining in his office, or shall cause a number of such lists to be posted up, in his vicinity; and he is required, at the expiration of the next three months, to send such of the said letters as then remain on hand, as *dead* letters, to the general post office, where they are examined; and such of them as are found to contain any matter of value, are returned to the writers thereof.

369. Post masters are allowed as a compensation for their services, a commission on letter postages by them received, not exceeding the following several rates on the amount received in one quarter:

On a sum not exceeding one hundred dollars, 30 per cent:

On any sum over and above the first hundred dollars, and not exceeding four hundred, 25 per cent.:

On any sum over and above the first four hundred dollars, and not exceeding two thousand four hundred, 20 per cent.:

On any sum over and above the first two thousand four hundred dollars, 8 per cent.:

On moneys received for the postage of newspapers, magazines and pamphlets, a commission of 50 per cent.:

Post masters whose compensation does not exceed five hundred dollars a quarter, are allowed two cents for every free letter delivered out of their offices. Whenever the yearly emoluments of any post master exceed two thousand dollars, over and above all the expenditures incident to his office, the surplus is paid over to the department.

370. The post master general renders to the secretary of the treasury, a quarterly account of all the receipts and

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has the printer of a paper? 368. When, and in what manner, are letters advertised? How are *dead* letters disposed of? 369. What compensation do post masters receive for their services? 370. How often are the accounts of the department settled? What is the post master general's salary?

expenditures in his department. Returns are in like manner made to the post master general, by all the deputy post masters. The salary of the post master general is \$6000 a year.

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## CHAPTER XXIII.

### *District of Columbia—Local Jurisdiction, &c.*

371. CONGRESS has the power "to exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings."

372. The establishment of a permanent seat of government for the United States, after the treaty of peace with Great Britain, received the early attention of congress. In October, 1783, it was resolved, that buildings for the use of congress should be erected on the banks of the Delaware. A few days later, it was resolved, that buildings for a similar purpose should likewise be erected on the Potomac, with a view of reconciling the conflicting wishes of the northern and southern states, by establishing two seats of government. In December, 1784, it was further resolved that a district should be purchased on the banks of the Delaware, for a federal town, and that contracts should be made for erecting a house for the use of congress and the executive officers, and suitable buildings for the residence of the president and the secretaries

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371. Over what places has congress power to exercise exclusive legislation? 372. What were the early measures taken by congress respecting the location of the seat of government? How was

of the several departments. But the appropriation of the necessary fund for these purposes, requiring the assent of nine states, was prevented by the southern interest. In 1790, a compromise was made, by which the friends of Philadelphia, in consideration of having the seat of government at that city, during ten years, the time estimated to be necessary for the erection of the public buildings, agreed that the seat of government should be permanently fixed on the Potomac.

373. The territory in which the seat of government is located, is ten miles square. It was ceded to the general government by the states of Maryland and Virginia, and erected into a district, under the exclusive jurisdiction of congress, by the name of the "*District of Columbia*." In the city of Washington, which is built near the centre of the district, the necessary buildings are erected for the accommodation of the general government, where its seat was established at the commencement of the present century. It was in view of the acquisition of this territory, that provision was made in the constitution for its government.

374. It is obviously necessary and proper that congress should possess supreme control at the seat of the national government; and that the members of the general government should not be dependent on a state for protection in the exercise of their duties.

375. As the inhabitants of this district have placed themselves under the government of congress, they have no voice in the election of representatives, nor of electors of president and vice president. Although laws are from time to time passed by congress for the government of this district, these acts principally adopt the laws of Maryland and Virginia, as the law of the several portions of the district ceded by those states respectively.

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the question at length settled? 373. How large is the territory of the District of Columbia? By what states was it ceded? In what city is the seat of government? 374. Why is jurisdiction over the territory given to congress? 375. What laws, principally, does congress adopt for the government of the territory? 376. Over

376. It is equally necessary that congress should exercise like authority over the forts, arsenals, dock yards, and other property of the United States; as the public money expended on such places, and the public property deposited in them, require that they should be exempt from the authority of the particular state in which they are situate.

377. The power of congress to legislate exclusively within any place ceded by a state, carries with it the right to make that power effectual. Congress may provide, by law, for the apprehension of a person who escapes from such place, after committing a felony; for conveying him to or from any other place for trial or execution. Congress may punish those for misprision of felony, who, out of a fort, conceal a felony committed within it. To give the United States exclusive legislation and jurisdiction over any place in a particular state, there must be a free cession thereof, for one of the purposes specified in the foregoing clause of the constitution. Such jurisdiction cannot be acquired tortiously, nor by occupancy with the tacit consent of the state.

378. When a place has been purchased by the United States, for the erection of a fort, with the consent of the state, the jurisdiction of the state ceases therein, and the inhabitants of such place cannot exercise therein any civil or political privileges under the laws of the state, as they are not subject to such laws, nor bound to pay taxes imposed by their authority.

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what other places has congress exclusive authority? 377. What right is necessarily exercised in the power of congress to exercise exclusive legislation? 378. When does the state jurisdiction over ceded territory cease?

## CHAPTER XXIV.

*Miscellaneous Powers of Congress.*

379. CONGRESS has power "to declare the punishment of treason." This power, is indispensable to the preservation of the government; and though it might have been inferred from the power of self-defence, which every government is presumed to possess; yet it is with great propriety inserted in the constitution.

380. The constitution, with equal propriety, contains a definition of the crime, prescribes the proof requisite for conviction, and restrains congress in punishing it. It declares that treason against the United States shall consist in levying war against them, or in adhering to their enemies, giving them aid and comfort. The term, "levying war," is adopted from the English statute of treasons, and has that sense in the constitution which it was understood to have in the English statute, from which it was borrowed. An assemblage of men, for a treasonable purpose, such as war against the government, or a revolution of any of its territories, and in a condition to make such war, constitutes a levying of war.

381. War can be levied only by the employment of force; troops must be embodied, men must be openly raised; but neither arms, nor the actual application of the force to the object, are indispensably requisite. To march in arms with a force marshalled and arrayed, committing acts of violence, in order to compel the resignation of a public officer, thereby to render ineffective an act of congress, is high treason. When war is levied, all who perform a part, however remote from the scene of action, being leagued in the conspiracy, commit treason. If one advise or command an overt act of treason, he is guilty

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379. Why is the power of congress to punish treason necessary?  
 380, 381. In what does the constitution declare treason to consist?  
 How is "levying war" defined? How is treason punished? 382. Is

*accessorily.* Treason, by the laws of the United States, is punishable with death.

382. But a mere conspiracy to levy war is not treason. A secret, unarmed meeting of conspirators, not in force, nor in warlike form, though met for a treasonable purpose, and enlisted, is not treason; but these offences are high misdemeanors.

383. In prescribing the proof necessary for conviction of treason, the constitution requires the testimony of two witnesses to the same overt act, or the confession of the offender in open court.

384. No attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted. *Corruption of blood*, by the common law of England, signifies that a person attainted of felony, forfeits his estate; and that he can neither inherit lands from his ancestors, nor transmit them to his heirs. But the constitution of the United States very properly prohibits this illiberal and unjust practice; and in the exercise of this power, congress has declared, that "no conviction or judgment shall work corruption of blood, or any forfeiture of estate;" so that the forfeiture may be omitted, *even during the life of the offender.*

385. Full faith and credit shall be given, in each state, to the public acts, records and judicial proceedings of every other state. And congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof. This provision was designed to secure the rights of those who are liable to suffer losses and injustice from the removal of persons and their property into another state; as it was to be presumed that cases of this kind would frequently occur near the borders of states. Congress has, in the exercise of this power, prescribed the manner of authenticating such records, and declared that they shall have

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a mere *conspiracy* to levy war treason? 383. What proof is required to convict of treason? 384. How is the punishment of treason restricted? What is meant by *corruption of blood*? 385. What does the constitution provide respecting the proof and effect of



such credit in every court within the United States, as they have in the courts of the state from which they are taken.

386. New states may be admitted by congress into the union. As the United States, at the time of the adoption of the constitution, possessed a large national territory, and as more might be acquired by cession or otherwise, the power to form new states, and to admit them into the union, was necessary; and it could not with propriety have been vested elsewhere than in the national government. But no new state may be formed or erected within the jurisdiction of any other state; nor may any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of congress.

387. Congress has power also to dispose of, and make all needful rules respecting the territory or other property of the United States. The power of congress to exercise authority over the territory ceded to the United States, during the existence of the confederation, had been disputed; an express grant of this power was therefore inserted in the constitution. As the general government possessed the right to acquire territory, it should also have the power to govern the same; as the territory so acquired does not become entitled to the right of self-government, and is not subject to the jurisdiction of any individual state. But nothing in the constitution may be so construed as to prejudice any claims of the United States, or of any particular state.

388. The United States are bound to guaranty to every state in the union, a republican form of government; and to protect each of them against invasion; and, on application of the legislature, or of the executive, (when the legislature cannot be convened,) against domestic violence. Without this guaranty, the states could not de-

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state records. &c.? What is the object of this provision? 386. Why was the power to admit new states into the union necessary? How is this power restricted? 387. What power has congress respecting the territory and property of the United States? 388. What are

mand from the general government any interference in preserving their constitutions, when threatened by domestic commotions; nor could the general government constitutionally afford assistance to the supporters of the state governments. And, without authority to protect the several states against invasion, and to aid them in maintaining their republican forms of government, there would be no security to the general government itself. For, should one state after another be permitted to relinquish its republican form of government, the whole system might ultimately be subverted. A state, however, may make any alteration in its constitution, that shall not change its republican form.

389. Congress may propose amendments to the constitution, whenever two thirds of both houses shall deem it necessary; or, on application of the legislatures of two thirds of the several states, it shall call a convention for proposing amendments. Amendments, thus proposed, are valid, as a part of the constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths of the states, as the one or the other mode of ratification may be proposed by congress.

390. It was presumed by the framers of the constitution, that, notwithstanding the care with which it had been prepared, experience would discover it to be imperfect; or that, how well soever it might, at that time, serve all the purposes of government, time and change of circumstances would render some alterations necessary. It was therefore requisite that some mode of amending it should be provided. But lest, by such provision, the government should be rendered unstable, by too frequent alterations, modes of amendment were adopted which are calculated to guard against any alteration that is not required to remedy some palpable inconvenience.

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the United States bound to guaranty to the several states? Why is this provision necessary? 389. How are amendments to the constitution proposed? What is necessary to their becoming valid, as a part of the constitution? 390. What is the object of a provision

391. The power to amend the constitution does not, however, extend to every provision. It was provided that no amendment which might be made prior to the year 1808, should affect the first clause in the ninth section of the first article, which allowed the importation of slaves to that period; and the fourth clause of the same section, which provides, that direct taxes be laid in proportion to the census or enumeration directed by the constitution to be taken, requiring the addition of three fifths of the number of slaves to the number of free persons. It is also provided, that no state shall, without its consent, be deprived of its equal suffrage in the senate. The first mentioned of these restrictions, has ceased to have effect; the last, securing to each state an equal representation in the senate, is perpetual.

392. Since the adoption of the constitution, amendments or additions have been, at three different times, proposed by congress, and ratified by the people. The first ten articles of the amendments were proposed at the first session of the first congress, which was begun and held at the city of New York, on the 4th of March, 1789, and were adopted by the requisite number of states. The eleventh article was proposed at the second session of the third congress. And the twelfth article, which changes the mode of electing the president and vice president, was proposed at the first session of the eighth congress. This amendment having been adopted, the 3d clause of the 1st section of the 2d article of the constitution was thereby repealed.

393. Frequent attempts have been made during the last few years, to propose amendments to the constitution; but the veneration with which the people regard this instrument, and their jealousy of any attempts to change a form of government under which they have enjoyed unexampled prosperity, have rendered these attempts unsuc-

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for its amendment? 391. What restriction was imposed upon the power to amend the constitution? 392. What amendments have been made to the constitution since its adoption? and at what periods? 393. What has been the result of the late attempts to propose

cessful. The people seem disposed to submit to some trifling inconveniences, rather than to give countenance to a spirit of innovation, which, if encouraged, may end in a change of the fundamental principles of the government. Of the twelve articles styled "amendments," which have been incorporated into the constitution since its adoption, it will be seen, that none but the last, (which changes the mode of electing president,) repeals or makes void any part of the constitution originally adopted.

394. By providing that amendments shall not even be proposed to the people, but by two thirds of both houses of congress, or that a convention for proposing amendments shall not be called by congress, until requested to do so by the legislatures of two thirds of the several states; and by providing further, that before amendments thus proposed shall be valid, they must be ratified either by the legislatures of three fourths of the states, or by conventions of delegates chosen by the people of three fourths of the states; the constitution seems to be amply guarded against unnecessary amendments or mutilations. The approval of the president is not required to an amendment of the constitution proposed by congress.

## CHAPTER XXV.

### *Incidental Powers of Congress.*

395. To the powers delegated to congress by the constitution, is added a general power "to make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by the constitution in the government of the United

amendments to the constitution? 394. For what reason was so difficult a mode of amendment adopted?

395. What general power is delegated to congress? What does *necessary* here mean? Why is this power deemed necessary?

States, or in any department or officer thereof." The word "necessary," in the foregoing clause, means *needful, essential, conducive to*, and gives congress the choice of the means best calculated to exercise the powers it possesses. Without such a power, either expressed or implied, many of the powers expressly delegated, could never have been carried into effect.

396. In pursuance of this general power, congress has power to inflict punishment in cases not specified by the constitution; such power being implied as necessary and proper to the sanction of the laws, and the exercise of the delegated powers:

To exact an oath of office, in addition to the oath of fidelity prescribed by the constitution:

To punish larceny of letters from the post office, or robbery of the mail:

To secure to the United States a priority of payment from the effects of an insolvent debtor. It is provided by acts of congress, that in all cases of insolvency, or where any revenue officer, or other person, becoming indebted to the United States, by bond or otherwise, shall become insolvent, or where the estate of any deceased debtor shall not be sufficient to pay all his debts, the debt due to the United States shall be first satisfied.

397. Under the general power to pass all laws necessary to carry into execution the powers vested in the government, congress has also exercised the power to create corporations, and establish a *bank*. This power was exercised by the first congress under the constitution, by the passing of the act incorporating a national bank, in 1791; and, subsequently, in 1816, by the incorporation of a new bank, after the charter of the first was expired.

398. The constitutionality of this power has, however, been seriously questioned; and its exercise has met with much opposition in congress. Although the opinion of the supreme court has repeatedly been given in accord-

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396. What are some of the cases in which this power has been exercised? 397. When was the first national bank created? The second? 398. What is said of the constitutionality of this institu-

ance with that of a majority of congress: yet the question is by no means settled. It is a question which has undergone much discussion and investigation, and on which there is still a great difference of opinion. Bills for renewal and incorporation, have several times received the executive veto, under different administrations. And it is admitted by the advocates of this power, that; to justify its exercise in the creation of a bank, such a corporation must be deemed necessary to carry into effect some power vested in the general government.

399. Under the power to establish post offices and post roads, and the power to raise money to provide for the general welfare, as well as the power to pass all laws necessary and proper for carrying into execution the powers vested in the general government, congress has, at different times, set apart funds for *internal improvements* in the states, by means of roads and canals.

400. It has been the practice to allow to the new states a portion of the proceeds of the sales of public lands, to be laid out in the construction of roads and canals within those states, or leading to them. The Cumberland road was constructed under the act of March, 1806, under a covenant made with the state of Ohio, that a portion of the proceeds of the sales of public lands lying within that state, should be applied to the opening of the roads leading to that state, with the consent of the states through which the road might pass. After the expenditures upon that road had exceeded the proceeds of the sales of the public lands in Ohio, a bill passed by both houses of congress, in 1817, appropriating funds for continuing it, was negatived by the president, on the ground that the constitution did not authorize the making of roads and canals, and improving water courses, through the different states; nor could the states confer the power. In 1832, a bill appropriating money for repairing this road, and establishing toll gates upon it, was objected to by the president.

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tion? On what grounds only, if on any, is it justifiable? 399. In what powers is the power to make internal improvements implied? 400. How was the Cumberland road authorized to be constructed? What bills relating to this road have been negatived?

401. Several presidents have, successively, denied the power of congress to pass bills for this and similar objects. But the power to lay out, construct and improve post roads and military roads, and to cut canals through the states, with their assent, for promoting internal commerce, and for the more safe and economical transportation of troops and military stores in time of war, is still claimed by congress, and pretty generally conceded. And the right to appropriate money for improvements which are not of a *local* or *state* character, but are of such general importance as to give them a *national* character, was admitted by president Jackson, in his message containing his objections to a bill that had passed both houses of congress, authorizing subscriptions to the stock of the Maysville turnpike road. It seems fair, therefore, to conclude, from the general practice of the government, that "the action of congress may be applied to those internal concerns which affect the states generally, but not to those which are within a particular state, and which do not affect other states."

402. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people. This amendment was added to the constitution as a necessary rule for its interpretation; but the amendment itself is liable to mis-construction. It has been considered as limiting the general government to the exercise of powers *expressed* in the constitution; and as prohibiting the exercise of any *implied* power, by which is meant, a power which is comprised in some other power, or which results from it as a necessary consequence.

403. By the confederation, each state retained all its sovereignty, and every power which was "not *expressly delegated* to the United States." This restriction upon

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401. What kind of internal improvements are generally considered within the constitutional power of congress? 402. What powers are reserved to the states or to the people? Does this restriction limit the government to *expressed* powers? What is meant by *implied* power? 403. How was the power of congress restricted un-

the powers of congress, was one of the principal defects of the confederation, which led to its abolition. It had been found impossible, in an instrument of this kind, to descend to all the minute details of legislation; as it could not be foreseen what subjects would require the attention of congress, in all future time. For the purpose, therefore, of giving greater latitude to the powers of the government, the word "expressly," which had been inserted before "delegated," was stricken out and omitted.

404. It must be presumed, therefore, that this article of amendment was not designed to restrict the powers previously granted by the constitution. By this rule of strict construction, a large proportion of the laws now in operation, would be unconstitutional and void; and "the power to make all laws necessary and proper to carry into effect the powers vested by the constitution in the government," would be useless. Congress has the power "to regulate commerce;" but the power is not *expressly* given to erect break-waters, build light-houses, and remove the obstructions in navigable rivers: this power is derived only by implication, being necessarily included in the power to regulate internal commerce. Congress has power to punish certain crimes expressed in the constitution; but it is not to be supposed that, because these crimes are expressed, congress has not the power of punishing others not expressed.

405. The power to make laws for any purpose whatever, would be wholly nugatory without the power to enact penalties, whenever it may be necessary for carrying a measure into effect: yet this power to punish is merely an *implied* power, not *expressly* authorized by the constitution. It is a general and well known principle, that all bodies politic necessarily possess all the powers incident to a corporate capacity, without an express decla-

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der the confederation? What change was made in the new constitution to remedy this defect? 404. What would be the effect of a strict and literal construction of the constitution, upon existing laws? 405. What reasons are given in favor of implied constitutional powers?



ration to that effect: and the amendment in question could not, therefore, have been intended to abridge any power granted by the constitution.

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## CHAPTER XXV.

### *Restrictions on the Powers of Congress.*

406. It was provided, by the constitution, that congress should not, prior to the year 1808, prohibit the migration or importation of such persons as any of the states, existing when the constitution was adopted, might think proper to admit. This clause has reference to the slave trade, which prevailed extensively in the United States when the constitution was framed. It would probably have been impossible to procure its ratification by the number of states required for its establishment, without recognizing the right of the states for a period to continue the importation of slaves. However, by yielding the right to prohibit such importation for a specified period, it doubtless contemplated the prohibition after that period should have elapsed. Laws have accordingly been passed, from time to time, for the suppression of the foreign slave trade. [See pages 137 and 138.]

407. It is indeed to be regretted, that the great charter of American liberty has ever sanctioned this horrid traffic; and it is somewhat remarkable, that a provision of this character should be adopted by a people that had declared it be a self-evident truth, "that all men are created *free and equal*," and "endowed by their Creator with the *unalienable* rights of life, liberty, and the pursuit of happiness;" and who had solemnly declared any form of government to be unjust, that did not "derive its powers from the *consent of the governed*."

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406. What restriction, relative to the importation of slaves, was imposed on congress? 407. Is the slave trade consistent with

403. This acknowledgment of the right of man to hold, *as property*, his fellow man, is incompatible with a just sense of freedom. But while we cannot justify this principle, let us not condemn the motives of those who allowed this provision to be incorporated in the constitution; as it is not to be doubted, that they aimed, in all their deliberations and labors, at the greatest good of the whole nation. And it certainly affords cause for gratulation, that measures were so promptly adopted to abolish the foreign slave trade, at the earliest period permitted by the constitution.

404. The privilege of the writ of habeas corpus may not be suspended, unless when, in case of rebellion or invasion, the public safety may require it. *Habeas corpus*, (Latin,) signifies, have the body. If a person has been illegally deprived of his liberty, he may petition a court or judge, who issues a writ to the party complained of, commanding him to have the body of the person confined before the judge or court. If, upon inquiry, the imprisonment is found to have been illegal, relief is granted. The privilege of this writ, and the right of trial by jury, are among the greatest privileges enjoyed under a free government, as they afford the most effectual security to the right of personal liberty.

410. No bill of attainder or ex post facto law may be passed. *Bills of attainder* are acts of a legislature, by which capital punishments are inflicted upon persons pronounced guilty, without trial or conviction in the ordinary course of judicial proceedings. An *ex post facto* law is a law that declares an act to be criminal which was not so before the law was passed; or that renders an act punishable in a manner in which it was not punishable when it was committed.

the declarations of Americans? 403. Was the foreign slave trade prohibited as soon as it could be done constitutionally? 409. What is the meaning of *habeas corpus*? What restriction is imposed on congress concerning the writ of habeas corpus? 410. What are *bills of attainder*? *Ex post facto* laws? 411. What re-

411. No capitation or other direct tax may be laid, unless in proportion to the census or enumeration taken as directed by the constitution. *Capitation* signifies enumeration of heads. A capitation tax, usually called a *poll* tax, is therefore a tax laid on each person. *Poll* is said to be a Saxon word, meaning head; and, by a slight change, it is used also to signify an election, because the result depends on the number of persons that act in it.

412. No tax or duty may be laid on articles exported from any state. No preference may be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor may vessels bound to or from one state be obliged to enter, clear, or pay duties in another. A uniform rate of duties or taxes throughout the states, was deemed requisite to ensure domestic peace and harmony. The levying of higher duties in the ports of one state than in those of another, would prove a fruitful source of jealousy and dissatisfaction among the several members of the union. Hence the propriety of this constitutional restriction.

413. No money may be drawn from the treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money, must be published from time to time. As congress is immediately responsible to the people, it is properly entrusted with the disposal of the public treasure. This provision was supposed, therefore, to be most likely to secure a faithful application of the public money. And to perfect the system of accountability, the public accounts are required, from time to time, to be submitted to the inspection of the people themselves. The experience of former governments had shown that the national treasury cannot be too strongly guarded.

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striction exists respecting the laying of direct taxes? What is a *capitation* tax? What is the meaning of *poll*? 412. How is the imposition of duties restricted? What is the object of this restriction? 413. How is the drawing of money from the treasury restricted? What is the object of this provision? 414. What provision

414. No title of nobility may be granted by the United States; and no person holding any office of profit or trust under them may, without the consent of congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state. This clause was evidently designed to guard against foreign influence in the administration of the government, and to prevent the introduction of customs that might, in time, diminish that respect for republican simplicity, which formed so conspicuous a trait in the American character.

415. Congress shall make no law respecting the establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech, or of the press. Among the "unalienable rights," with which men are created, is *religious liberty*. This liberty has been denominated "the liberty of conscience," and "the rights of conscience." It is defined to be, "the liberty which a man has of discussing and maintaining his religious opinions, and of worshipping God in that way and manner, which he believes in his conscience to be most acceptable to his Maker, without being liable to any degradation, penalties or disqualifications, civil or political."

416. A large portion of the early population of this country was composed of persons who had come hither, to escape the restrictions and disqualifications imposed, by the laws of the parent country, on dissenters from the established church. To avoid the evils which were known uniformly to flow from an alliance between the church and the state, and to secure to all the full enjoyment of religious freedom, all interference by the government in matters of religion, abridging in any degree the rights of conscience, by giving preference to any religious sect, is expressly prohibited by the above provision.

417. Both religious and civil institutions are most safe, as well as most prosperous, where religion derives no

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is made to guard against foreign influence upon the government?  
415. How is liberty of conscience, of speech, and of the press secured? What is *religious liberty*? 416. Why was this liberty deemed necessary? 417. What is essential to the enjoyment of

other support from government than protection in its free exercise. 'This it requires; and religious liberty cannot be said to exist, where the laws merely tolerate religion, but do not, by penal sanctions, protect men in the exercise of its duties.

418. Freedom of speech, and of the press, is equally necessary to the existence of a free state. The most odious restrictions, had been, in many countries, laid upon the press. It was regulated by prohibitions and licenses from the government. New publications were not allowed to be issued, until they had been approved by licensers. But as such restrictions were deemed incompatible with all just ideas of freedom, the liberty of the press and of speech was guarantied to every citizen; he being amenable to the laws for the abuse of this liberty.

419. Of the restrictions remaining unnoticed, is that which preserves to citizens the right of *trial by jury*. This right is enjoyed in all criminal prosecutions, and in suits at common law, where the value in controversy shall exceed twenty dollars; and is secured by the 5th, 6th and 7th articles of amendment.

420. The institution of trial by jury, is derived from the English laws. Trial by jury was recognized in criminal suits in England, as early as about the beginning of the twelfth century; but in civil suits it seems not to have reached its present form, until near the middle of the thirteenth century. The jury system, in its present improved state, is justly considered the "great palladium of liberty." It was one of the most distinguished privileges enjoyed under the British constitution; for as every one was tried by his peers, the meanest subject was as safe as the greatest. It was regarded by the colonists, as the most valuable civil privilege which they, as British subjects, possessed; and the infringement of this right constituted one of the grievances enumerated in the declaration of independence, as justifying the revolution.

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religious liberty? 418. How was the liberty of the press formerly restricted in some countries? 419. How far does the right of trial by jury extend? 420. Whence is this right derived? What con-

421. A jury usually consists of twelve men, (in some cases of a greater number,) who are sworn to deliver a truth upon such evidence as shall be delivered to them touching the matter in question. No person can be put on trial for a crime, until a grand jury shall have declared, after hearing the evidence against him, that he ought to be tried. Such declaration is founded upon the presumption that he is guilty. He is then put upon trial; and the unanimous verdict of a jury of twelve men, (called a *petit jury*.) is necessary to convict him. A two fold security to the liberties of the people, is provided by this mode of trial in criminal cases.

422. In some of the states in the union, parties to civil suits, in which the damage claimed is less than twenty dollars, are not allowed the privilege of juries. It has been well remarked, "it is the most transcendent privilege which any subject can enjoy, or wish for, that he cannot be afflicted either in his property, his liberty, or his person, but by the unanimous consent of twelve of his neighbors and equals."

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## CHAPTER XXVI.

### *Restrictions on the Powers of the States.*

423. No state may enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

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sideration renders this privilege valuable? 421. Of what does a jury consist? What are the duties of a jury? 422. How is the right of trial by jury restricted in some states? 423. What restrictions are imposed upon the states? 424. Why were the states pro-

424. The restrictions which are here and elsewhere imposed upon the states, are indispensably necessary to secure to the country the blessings of union. Were every state at liberty to enter into treaties or alliances with foreign states, or with other members of the union, it is easy to foresee the evils and dangers that would result from such an exercise of this power. And with the power to grant letters of marque and reprisal, a state might involve the whole union in war, as this measure is usually followed by open hostilities.

425. To avoid the inconveniences that would arise from coins so various in value as might be expected if each state were permitted to coin money, and to regulate its value, this power was prohibited to the states, and granted exclusively to congress.

426. *Bills of credit* are declared to mean promissory notes, or bills issued exclusively on the credit of the state, and which the faith of the state only is pledged to pay. The prohibition does not, therefore, apply to the notes of a state bank, drawn on the credit of a particular fund set apart for the purpose. The losses sustained previously to the adoption of the constitution, from the effects of paper money, rendered this restriction upon the powers of the states necessary; while the fluctuations in the value of paper money seemed to require that gold and silver only should be made a tender in payment of debts.

427. Laws impairing the obligation of contracts are inconsistent with the secure enjoyment of the right of property, and the fundamental principles of the social contract. The power to pass such laws is therefore properly prohibited to the states. A state legislature may alter or modify public corporations, such as counties, towns and cities, provided the property therein be secured to those who originally possessed it; but such legislature

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hibited from entering into treaties or alliances? and from granting letters of marque and reprisal? 425. Why are they prohibited from coining money? 426. What are *bills of credit*? Why are the states restrained from issuing them? 427. Why are laws prohibited impairing the obligation of contracts? How does this pre-

cannot repeal statutes creating private corporations, or dispose of the property of the corporators. A charter from the British crown to the trustees of Dartmouth college before the revolution, has been declared to be a contract within the meaning of the constitution. The supreme court held that the college was a private corporation; and that the act of the legislature of New Hampshire, materially altering the charter without the consent of the corporation, was a law impairing the obligation of a contract, and was unconstitutional and void.

428. No state may, without the consent of congress, lay any impost duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts laid by any state on imports or exports, must be for the use of the treasury of the United States; and all such laws are subject to the revision and control of congress.

429. No state may, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

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provision affect public corporations? 428. What restriction is imposed upon the states concerning the laying of impost duties? 429. What other restrictions are here mentioned?



## PART FOURTH.

### OF THE STATE GOVERNMENTS.

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#### CHAPTER I.

*Maine—New Hampshire—Massachusetts—Vermont—  
Connecticut—Rhode Island.*

430. ALL the state governments are representative republics. All of them are conducted in conformity to written constitutions, adopted by the people, in each state, excepting in Rhode Island, where the ancient colonial charter is yet in force. Each one has a legislative, executive and judicial branch, and its own modes of exercising power in these several departments. The distinctions existing among the state governments are found in the qualifications of the electors, and of the elected; in the origin and duration of office; in the limitations of the powers which may be exercised; and in peculiar constitutional provisions; and, especially, in the character of legislation in each state. The principal constitutional provisions in the government of each state, are here given as concisely as possible.

431. *State of Maine.* The constitution is dated in 1819.

The legislature is composed of a senate and house of representatives. Members of the house are chosen in

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430. What is the character of the state governments? In what respect are they alike? In what consists the principal difference? 431. What

towns, in proportion to the number of inhabitants. To be eligible, they must have been citizens of the United States, five years, and resident in the state, one year. The senate is composed of twelve members, chosen in districts. Their qualifications are the same as representatives, and must be twenty-five years of age. The legislature is elected annually, and meets the first Wednesday in January.

The executive consists of a governor, chosen annually by the people, and a council of seven, chosen in convention of the house and senate. The qualifications of the governor are the same as those of senators, except that he must be thirty years of age. He has the power of appointment and pardon, and a qualified negative on legislative acts. To *negative* an act, means the refusal of an executive to sign a bill to which his assent is necessary in order to its becoming a law. When, under any circumstances, the executive assent is required, he is said to possess an *absolute* negative. But if a bill that has been negatived, may notwithstanding become a law, by being re-passed by a constitutional majority of the legislature, the negative is said to be *qualified*. This power to negative bills, is usually called the *veto* power. The governor may be removed by impeachment. The president of the senate acts as governor in case of vacancy.

The judiciary consists of a supreme court, and county courts. The judges of the supreme court are appointed by the governor and council. They hold their offices during good behavior. There are two modes of removal provided by the constitution. First, by the governor and council, on address of the legislature, in which a majority of both branches concur in the opinion that a judge ought to be removed. The other mode is by impeachment by the house of representatives, and trial before the senate,

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is the date of the constitution of *Maine*? How is the legislature constituted? How chosen? Qualifications? Time of meeting? Of what does the executive consist? How chosen? Qualifications? Powers? What is a *qualified* negative? Of what does the judiciary

as in case of a judicial officer of the United States. Judges are disqualified at the age of seventy years.

The qualifications of voters are so inconsiderable, that suffrage may said to be universal.

Religious freedom is provided for; there is no religious test in oaths of office.

432. *State of New Hampshire.* The constitution was adopted in 1782.

The legislature is vested in a general court of two branches, a house of representatives and a senate. Representatives are chosen in towns, in proportion to the taxable polls; they must have an estate of £100, half of which is freehold. The senate consists of twelve members. Senators must have been residents in the state seven years; must have a freehold of £200; and must be thirty years of age. They are chosen in districts, in proportion to the amount of taxes paid therein. All elections are for one year. The legislature meets on the first Wednesday in June.

The executive consists of a governor, and council of five, chosen by the people. The governor must have an estate of £500, of which one half must be freehold; and he must have been a resident in the state seven years. The executive is removable by impeachment. The president of the senate acts as governor in case of vacancy.

The judiciary is the same as in Maine.

The qualifications of electors are residence, and payment of taxes.

The legislature may provide by law for maintaining religious worship. There is no religious test.

433. *State of Massachusetts.* The constitution was made in 1780; and received some amendments in 1820.

consist? How appointed? How removed? What are the qualifications of voters? 432. *New Hampshire.* When was the constitution adopted? How is the legislature constituted? Qualifications? Of what does the executive consist? Qualifications? How removed? How is the judiciary constituted? Qualifications of electors? 433. *Massachusetts.* Date of constitution? Of what is the legisla-

The legislative power is vested in the general court, consisting of a senate of forty members, chosen in districts composed of several towns, and a house of representatives chosen to represent the towns in which they reside. Representatives must have been residents for one year in the towns in which they are chosen; and must have a freehold of £100, or a taxable estate of £200. Senators must have been residents in the districts in which they are chosen, and must have a freehold of £300, or a taxable estate of £600. The legislature meets on the first Wednesday in January.

The executive power is vested in a governor. There is also a lieutenant governor, who acts as governor in case of vacancy. They must have been residents in the state for seven years, and must have a freehold estate of £1000, and believe in the Christian religion. There is no religious test in oaths of office. Nine councillors are chosen by the legislature. The power of appointment is with the governor and council; that is, the governor nominates, or names to the council, persons whom he thinks proper to fill offices, and the councillors approve or disapprove the nomination. The power to pardon and reprieve criminals, also, is with the governor and council. The governor has a qualified negative on legislative acts.

The judiciary consists of a supreme court, and county courts, or courts of common pleas. There are also in this state, as in others, justices' courts in each town.

The qualifications of voters are, residence and payment of taxes; which is, practically, universal suffrage.

434. *State of Vermont.* The constitution was adopted in 1793. The legislative power is vested in a house of representatives, styled the general assembly. Members are qualified by two years' residence in the state, and one in

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ture composed? Qualifications? What constitutes the executive? Qualifications? Powers? What courts are in the state? Qualifications of voters? 434. *Vermont.* Date of constitution? Wherein is the legislative power vested? Qualifications of members? How is

the town represented. Elections are held annually. The legislature meets on the second Tuesday in October. There is no senate. Legislative acts are subject to the revision of the executive branch, which can propose amendments, and suspend a proposed law till the next legislature.

The executive is vested in a governor, lieutenant governor, and council of twelve, all chosen by the people for one year. In council, the governor is only the presiding officer, with a casting vote.

The judges of the supreme and county courts may be elected annually by the house of representatives, in conjunction with the executive branch.

Qualifications of the electors amount to universal suffrage.

Neither of the branches shall exercise the powers of the other; yet the executive is a concurrent part of the legislature, and the court for the trial of impeachments. Once in seven years, thirteen censors are chosen, who examine, during one year, all departments of the government: they have power to order impeachments, and to call a convention of the people. Religious freedom is provided for.

435. *State of Connecticut.* The constitution was adopted in 1818; till which time it was governed under the colonial charter.

The legislature, called the general assembly, is composed of a house of representatives and a senate of twelve. Representatives are chosen in towns, according to their numbers; senators by general ticket. The citizens are styled in the constitution, *electors*; and all white male citizens are such, who are resident citizens for six months, and have a freehold of seven dollars yearly value; or who have done militia duty, or paid a tax. Elec-

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the executive constituted? The judiciary? Qualifications of voters? What other provisions? 435. *Connecticut.* Date of constitution? How is the legislature constituted? Qualifications? The execu-

zors are entitled to vote for all officers, and are eligible themselves to any office. All elections are held annually. The legislature meets on the first Wednesday in May.

The executive power is vested in a governor, elected by the people for one year. Some appointments are made by nomination of the governor to the senate. The governor has a qualified negative. He has power to reprieve, but not to pardon: this power resides in the legislature. He is removable on impeachment. The lieutenant governor is president of the senate.

The judges are chosen by the legislature; they are removable as in Maine; and are disqualified at seventy.

In this state, entire freedom of religion is secured. There is no religious test in office. The constitution recognizes the existence of a large school fund, and provides for its perpetuity.

436. *State of Rhode Island.* The government of this state has been continued, hitherto, under the charter granted by Charles II. in 1663. The grant was to a company, comprising a governor, deputy governor and council. To this branch has been added a house of representatives, chosen by the people, in towns; and a judiciary department, the judges of which are chosen annually by the people. The administration of the government is carried on by the legislative and executive departments, according to the construction given to the charter by usage. The powers of the governor are very limited. There is perfect freedom as to religious opinions. No religious test. Suffrage is universal.

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tive? His powers? The judiciary? 436. *Rhode Island.* What is said of the government of this state?

## CHAPTER II.

*New Jersey—Pennsylvania—Delaware—Maryland—  
Virginia—South Carolina—Georgia.*

437. *State of New Jersey.* The constitution of this state was established the 2d of July, 1776, (two days before the declaration of independence.) It was formed on the supposition that the colony might again be taken under the protection of the British crown. It has continued to the present time, without any amendment, except that of changing the word *colony* for *state*.

The legislature is vested in a council and general assembly. The council consists of one member from each county, worth at least £1000; and the assembly, of three members from each county, worth at least £500. Power is given to the legislature to apportion the representatives in counties. Time of meeting, second Tuesday next after the second Tuesday in October, annually.

The governor is chosen by the legislature annually. He presides in the council, is chancellor, military chief, and surrogate general. The vice president of the council is successor in case of vacancy. The governor and council are a court of appeals. The pardoning power is vested in this body.

The judges of the supreme court are chosen by the legislature for seven years; other judges the same, for a shorter term. They are removable by impeachment.

Voters must be citizens resident one year, and worth £50. Religious freedom, and exemption from taxation for support of worship, are established.

This constitution is remarkable for the mingling of different powers in one branch.

437. *New Jersey.* Constitution, when established? How is the legislature constituted? The executive department? The judiciary? What are qualifications of voters? 438. *Pennsylvania.*

438. *State of Pennsylvania.* The present constitution was established in 1790, and has not been since amended.

The legislature, called the general assembly, is composed of a senate and house of representatives. The number of senators may not exceed that of one third, nor be less than one fourth, of that of the house. They are chosen in districts, and are apportioned on the number of taxable inhabitants therein. The number of the house may not be less than sixty, nor greater than one hundred. Its members are chosen in districts, in the same ratio as senators. The qualifications of members are, age of twenty-five years, citizenship and residence. Representatives are chosen annually, senators for four years, one fourth renewed annually. The legislature meets on the first Tuesday in December.

The governor is chosen by the people triennially; he can be chosen only thrice in twelve years. No lieutenant governor. No council. He has the uncontrolled power of appointment of all officers, with remarkably few exceptions. The only qualifications required are citizenship, and residence in the state seven years next before the election. Pardoning power, except in cases of impeachment.

The judiciary is vested in a supreme court, and inferior courts. Judges are appointed by the governor during good behavior. Removable on impeachment, or by address to the governor by two thirds of the legislature. No court of chancery. No court of errors.

Citizenship, two years' residence, payment of taxes, supposed to be, practically, universal suffrage.

The most unqualified religious freedom has prevailed in this state from its earliest settlement.

439. *State of Delaware.* This state acted under the colonial charter till 1792. It then adopted a constitution which has not been amended, except in one judicial article adopted in 1802.

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What is the date of constitution? Of what is the legislature composed? Qualifications of members? How is the governor chosen? What are his qualifications? Powers? What courts? Tenure of office of judges? Qualifications of voters? 439. *Delaware.* Date



The legislature consists of a senate and house, which are called the general assembly. The number of senators may not be less than one third, nor greater than one half, the number of members of the house. The members of each are apportioned among the counties, with power in two thirds of each branch, to increase the number in counties. Qualifications are, citizenship, residence and freehold estate. Senators are chosen for three years; representatives annually. Meeting of the legislature is on the first Tuesday in January.

The governor is chosen by the people for three years. He must be a citizen, and thirty-six years of age. He has the uncontrolled appointment of all officers; and the power of pardoning, except in case of impeachment. On vacancy, the duties of the office are performed by the speaker of the senate. The governor may be removed for inability, by two thirds of both branches of the legislature.

The courts are numerous. The judges hold their offices during good behavior. They are removable on impeachment, or on address of two thirds of both branches of the legislature.

Resident white citizens, paying taxes, are qualified to vote.

Religious freedom is enjoyed in this state.

440. *State of Maryland.* The constitution of this state was adopted in 1776. It vests in the legislature the power of making amendments by proposed *acts*, which shall be published three months before the meeting of the next legislature, and if confirmed, the amendments are thereby effected. This power has been frequently exercised, and the constitution has been amended, and may be further amended in like manner.

The legislature is composed of a senate and house of delegates. Senators are chosen for five years, by electors

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of constitution? How is the legislature constituted? The executive? The judiciary? 440. *Maryland.* What is the date of constitution? How amendable? How are the several departments of the govern

who are chosen in counties. They must be citizens twenty-five years of age; and they must have had a residence in the state three years. Delegates are chosen by the people annually. Their qualifications are, citizenship, and one years' residence. Legislature meets on the first Monday in December.

The executive consists of a governor, and an executive council of five. The governor is chosen for one year, by joint ballot of both legislative branches. He may be chosen three years successively; and he is then ineligible for four years. He must be twenty-five years of age, and a resident citizen five years. Members of the council are chosen by the people. The executive has the power of pardoning in all cases, except those in which the laws otherwise direct.

Judges are appointed by the governor and council; they may be removed on the address of two thirds of the legislature, and by conviction, on indictment, in a court of justice.

Universal suffrage is enjoyed, and religious freedom is established, in this state.

441. *State of Virginia.* The constitution was amended in 1830.

The legislature is called the general assembly, composed of a house of delegates, of one hundred and thirty-four members, apportioned in four great districts; and of a senate of thirty-two, apportioned in two greater districts. Members of the house are chosen annually by the people; of the senate, one fourth are annually renewed by popular election. Members of both branches must be freeholders. The legislature meets annually; but the constitution does not appoint the day.

The governor is chosen for three years, by the two branches of the legislature, and is eligible but once in six years. He must be a resident citizen, of the age of thirty years. A council of three is chosen in the same manner,

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ment constituted? 441. *Virginia.* Of what is the legislature composed? The executive? How are judges chosen? How do the elec-

the senior of whom is lieutenant governor. They are chosen for three years; but one of their number is annually renewed. The executive has the power of pardoning.

The judges and attorney general are chosen by the joint vote of the two branches, during good behavior, and removable on address, or on impeachment.

White male citizens only are voters. Their qualifications are such as to render suffrage nearly universal. Elections are *viva voce*, and not by ballot. *Viva voce* are words signifying *living voice*. The electors, on voting, name the persons for whom they vote.

The clergy are ineligible as legislators. No legislative provision can be made for religious worship; every one is free to believe and worship as he pleases.

442. *State of South Carolina.* Constitution adopted in 1790. It contains a provision, similar to that of Maryland, for amendments. It has been twice amended, once in 1808, and again in 1816.

The legislature is composed of a general assembly, consisting of a senate and a house. One hundred and twenty-four representatives are apportioned in districts, in such manner, that each representative shall represent one sixty second part of the whole number of white inhabitants, and one sixty second part of the whole amount of taxes raised by the state. The senate consists of forty-five members, who are chosen in election districts, which are established for the choice of representatives. Members of the house of representatives are chosen for two years; senators for four years, half of them renewed biennially. The former must be resident citizens three years; the latter five years, and must be thirty years of age, and freholders. The legislature meets on the first Monday in November.

The governor is chosen by the legislature for two years; re-eligible after four years; and must be thirty

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tors vote? 442. *South Carolina.* What is the date of the constitution? How is the legislature constituted? The executive? Tenor

years of age, a citizen resident ten years, and a freeholder. He has no council. He has the power of pardoning. A lieutenant governor, of like qualifications, is chosen, who has no power or duty unless the office of governor becomes vacant. Removal is made by impeachment.

Judges are appointed by joint ballot of the legislature, and hold their offices during good behavior. Removable by impeachment.

Voters must be resident citizens two years, and possess a freehold, or pay taxes to the amount of *three shillings* sterling, which comes near to universal suffrage.

Religious freedom is established. Clergy ineligible to any civil office.

443. *State of Georgia.* Constitution adopted in 1798. It has been amended in one judicial provision.

The legislature is organized as in South Carolina. The senate and house are chosen in counties, according to white population, adding thereto two fifths of the people of color. Qualifications of members are, citizenship, residence, age and freehold, or other taxable property. Meeting is on the second Tuesday in January.

The governor is chosen by the legislature, biennially. Qualifications are, citizenship, age, freehold, or other taxable property. He has a qualified negative; pardoning power, except in case of impeachment; and power to reprieve, in case of treason and murder, till the session of the legislature.

Superior judges are chosen by the legislature for three years; and are removable by address, and by impeachment.

Qualifications of voters amount, practically, to universal suffrage.

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of office of judges? Qualifications of voters? 443. *Georgia.* How is the legislature organized? The executive? How are judges chosen?

## CHAPTER III.

*Kentucky—Ohio—Indiana—Louisiana—Mississippi—  
Illinois—Alabama—Missouri.*

444. *State of Kentucky.* Constitution adopted in 1799. A convention is necessary to amend.

The legislature consists of a senate, and house of representatives. The number of senators is twenty-four, of which one fourth are renewable annually: the number may be increased in proportion of one for every three added to the house. They must have been resident citizens six years, and thirty-five years of age. They are chosen in districts in proportion to qualified electors. Representatives must have been resident citizens two years, and twenty-four years of age: proportioned to the number of electors. The whole number may not be less than fifty eight, nor exceed one hundred. Meeting annually, on the first Monday in November.

The governor is elected for four years, and is then ineligible for seven years. Qualifications the same as senators. He has the power of pardoning, except in case of impeachment; of reprieving in case of treason, till the legislature is convened; the power of nomination to the senate of all judicial and other important officers; and a qualified negative. There is a lieutenant governor, who is president of the senate.

Judges hold their office during good behavior; and are removable by the executive on address of the legislature, and by impeachment.

Universal suffrage.

Members of the legislature are disqualified, for one year, from accepting any office created, or any of the emoluments of which have been increased, during membership. The clergy are disqualified for civil office. In

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444. *Kentucky.* Of what does the legislature consist? Qualifications of members? How is the governor chosen? What are his powers? What is the tenure of the judges? What other provisions?

all elections, voting is in *viva voce*, and not by ballot. Slaves may not be emancipated by law, without consent of their owners; nor without making their owners compensation therefor; nor may be prohibited from being brought into the state by emigrants. Laws shall be passed to permit owners to emancipate on certain conditions, and to prevent slaves from being brought into the state as merchandise. Provisions are made for the enacting of laws requiring humane treatment, and trial by jury for offences. Religious freedom is established.

445. *State of Ohio.* Constitution adopted in 1802 amendable by convention.

The legislature consists of a house and senate. Members of the house must have been resident citizens one year, and paid taxes; and they must be twenty-five years of age. They are chosen in counties, according to the number of white male inhabitants above twenty-one years of age. The whole number may not be less than thirty six, nor more than seventy-two. Senators have the same qualifications; are chosen on the same basis as the house, for two years, one half of their number to be renewed annually; and the whole number to be not less than one third, nor more than one half of the number of representatives. Legislature meets on the first Monday in December.

The executive consists of a governor only, who is elected by the people for two years; is eligible six years in eight; and is required to be thirty years of age, and a resident citizen four years. He has the power of pardoning, except in cases of impeachment. He has no negative, nor appointing power. Speaker of the senate succeeds in case of vacancy.

Judges are chosen by joint ballot of the two branches of the legislature; and are removable on impeachment.

Universal suffrage and religious freedom are enjoyed. Slavery is prohibited, and provision is made for ending existing servitude by lapse of time.

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445. *Ohio.* What provisions as to the legislature? The executive?

446. *State of Indiana.* The constitution was adopted in 1816. It is amendable by convention.

The legislature consists of a senate and house. Members are required to be resident citizens, and to have paid taxes. They are apportioned according to the number of white male inhabitants above twenty-one years of age. Members of the house are chosen annually; senators for three years, one third renewable annually. Legislature meets on the first Monday in December.

The governor is chosen by the people for three years, and is eligible six years in nine; he must be thirty years of age, and he must have been a resident citizen five years. He has the power of pardon, except in case of impeachment; and a qualified negative. He nominates all officers, with a few exceptions, to the senate. The lieutenant governor is president of the senate.

The judges of the supreme court are appointed by the governor, with the consent of the senate; the president of the circuit (or county) courts, by the joint ballot of the two branches of the legislature; and the associate judges of this court are elected by the people. They are removable on impeachment.

Education is liberally provided for. Slavery is prohibited. Acts of the legislature are not in force till published in print. Religious freedom is established.

447. *State of Louisiana.* Constitution adopted in 1812. It is amendable by convention.

The legislature consists of a senate and house of representatives. Senators, fourteen in number, are chosen in districts, for four years, half renewed biennially. They must have been resident citizens four years; they must be twenty-seven years of age, and freeholders to the value of £1000. Representatives are chosen for two years; they must have been resident citizens two years; and they must be freeholders. They are chosen on the basis

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The judges? 446. *Indiana.* How are members of the legislature apportioned? How elected and qualified? The governor? How are the judges appointed? 447. *Louisiana.* How is the legislature

of the number of qualified electors; and their number may not be less than twenty-five, nor more than fifty. Meeting of the legislature is on the first Monday in January.

The governor is elected for four years, and is ineligible for the next four years; he must be a citizen resident six years, thirty years of age, and a freeholder of \$5000 value. Clergymen and members of congress are ineligible. The governor has the power of pardoning, with the assent of the senate, except in impeachments. He has a qualified negative, and the general power of appointment, with the consent of the senate. The president of the senate succeeds in case of vacancy.

Judges hold their offices during good behavior; and are removable on impeachment, or address.

All white male citizens, who have paid a tax, are voters.

The clergy are excluded from civil office. The constitution is silent as to religion, education and slavery.

448. *State of Mississippi.* Constitution adopted in 1817.

The legislature consists of a senate and house; members of both are chosen by the qualified electors of the state. Members of the house of representatives must be resident citizens two years; twenty-two years of age, and freeholders of the value of \$500. Whole number must never be less than thirty-six, nor more than one hundred, chosen for one year. Senators shall never be less than one fourth, nor more than one third, of the number of the house; apportioned on taxable inhabitants, in districts; must be resident citizens four years; twenty-six years of age; and have a freehold, or other estate of \$1000. Time of meeting, first Monday in November.

The governor is chosen by the same electors; must have been a citizen twenty years, a citizen resident five years, thirty years of age, and a freeholder of the value

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constituted? The executive? Tenure of office of judges? 448. *Mississippi.* How is the legislature constituted? The executive? How



of \$2000. He is chosen for two years. He has no power of appointment. He has the power of pardoning, except in cases of treason and impeachment, and he has a qualified negative. There is a lieutenant governor, who is president of the senate.

The judges are chosen by the legislature, during good behavior; they are removable by impeachment or address; are disqualified at sixty-five years of age.

The provisions as to voters amount to universal suffrage.

Clergy are excluded from civil office. Legislature shall provide, by law, in what manner and in what courts suits may be brought against the state. Religion and education "shall be forever encouraged in this state." There is a provision respecting slaves, similar to that in the constitution of Kentucky.

449. *State of Illinois.* This constitution was established in 1818, and is, in general, so much like that of Mississippi, that it is unnecessary to notice anything but the points of difference. Slavery is forbidden in Illinois. The governor and the judges of the supreme court, jointly exercise the qualified negative on legislative acts, which, in some other states, is vested in the governor. Meeting of the legislature, first Monday in December, every second year. Voting, *viva voce*.

450. *State of Alabama.* Constitution adopted in 1819. The provisions are so similar to those in the state of Mississippi, that it is unnecessary to describe them. The greatest number of representatives is one hundred. The senate not less than a fourth, nor more than a third of that number. Meeting, fourth Monday in October.

451. *State of Missouri.* Constitution adopted in 1820. This constitution is so much like that of Mississippi, that it is needless to describe it. Meeting of the legislature,

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are the judges chosen, and removed? What other provisions? 449, 450, 451. What is said of the constitutions of Illinois, Alabama and Missouri?

first Monday in November of every second year. Whole number of representatives never to exceed one hundred.

[As measures are in progress in the states of North Carolina and Tennessee for amending their constitutions, it is deemed unnecessary to notice any of the provisions in the present constitutions of those states.]

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## CHAPTER IV.

### *State of New York.—Legislative Department*

452. THE government of this state is divided into three branches, the legislative, executive and judicial. The manner in which these are severally constituted, and their respective powers and duties, are prescribed by the constitution, and the laws that have been enacted in pursuance thereof.

453. The legislature is composed of a senate and assembly. The senate consists of thirty-two members, who must be freeholders. They are elected for four years; and are apportioned equally among the eight senate districts into which the state is divided. They are so classified, that the office of one senator in each district shall expire every year, in order that one senator may be annually elected in each senate district. [See constitution, Art. I Sec. 5.]

454. The assembly consists of one hundred and twenty-eight members, who are annually elected. These are apportioned among the several counties, as nearly as may be, according to the number of their respective inhabitants.

455. It has been provided, by law, that members of the legislature shall be privileged from arrest on civil process.

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452. How is the government of this state divided? 453. How is the senate constituted? 454. Of what does the assembly consist?

during their attendance at the session of the house to which they belong, except on process issued in any suit brought against them for any forfeiture, misdemeanor, or breach of trust, in any office or place of public trust held by them. They enjoy the like privilege for fourteen days previous to the session; and also while going to or from such session, provided the time of going or returning do not exceed fourteen days. Officers of each house, also, while in actual attendance, are not liable to arrest on civil process. Freedom of debate is secured to the members of each house.

456. The legislature meets at the capitol, in the city of Albany, on the first Tuesday in January in every year. The manner in which each house is organized, the choice of its officers, its mode of transacting business, and its power to punish members, are nearly the same as in the national legislature.

457. If application is to be made to the legislature of this state, for the passage of an act to divide or alter the bounds of a county, city or village; or to erect or incorporate a new one; to impose a tax for any local purpose in any county, in which the inhabitants of the county are proposed to be taxed; or to incorporate any association or to amend its charter: persons so applying, are required to give notice of the intended application by advertisement, to be published for at least six weeks successively, immediately before such application, or before the first day of the session, at which the same is to be made. Such notice is to be published in a newspaper printed in the county, or in each of the counties in which the objects are to be carried into effect, and also, in case of an intended application for the imposition of any tax, in the state paper. If there be no newspaper in a county in which the notice is required to be published, the notice must be published in the place nearest thereto, in which a newspaper is published.

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455. What privileges have members of the legislature? Its officers?  
456. Time of meeting? Its organization, powers, &c.? 457. In what cases must previous notice be given of intended applications

458. Each member of the legislature receives for his services, three dollars for each day's attendance, and three dollars for every twenty miles of the distance from his residence to the place of meeting, to be computed both for going to, and returning from, the same. The clerk of the senate receives a yearly salary of \$1200, and the clerk of the assembly, a salary of \$1800; from which each clerk provides his own assistants and clerks. The chaplain, sergeant-at-arms, and doorkeeper of each house, and assistant doorkeeper of the assembly, receive for each day's attendance, the same compensation as members of the legislature.

459. The clerks of the senate and assembly provide furniture for the senate and assembly chambers, stationary, firewood and other articles, for the use of the legislature, the expenses of which are paid out of the treasury.

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## CHAPTER V.

### *Executive Department.*

460. THE governor and lieutenant governor are the two highest executive officers in the state. Their principal powers and duties are prescribed by the constitution; and correspond, very nearly to the powers and duties of the president and vice president of the United States. The salary of the governor, as established by law, is \$4000 a year; that of his private secretary, \$600. The lieutenant governor has six dollars a day for his attendance as president of the senate, or of the courts for the trial of impeachments, and the correction of errors; and also as commissioner of the land office and canal fund, when not

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to the legislature? and how? 458. What is the compensation of members and officers of the legislature? 459. How are the furniture, stationary, &c. provided?

460. Who are the highest executive officers of the state? What

attending the session of the senate, or of the court of errors, or impeachments. He is also allowed six dollars for every twenty miles travelling, in going to, or returning from, the place of meeting in the discharge of these duties.

461. The governor, like the president, is aided, in the administration of the government, by numerous subordinate officers. The principal of these executive officers are, the secretary of state, the comptroller, the treasurer, the attorney general, and the surveyor general.

462. The *secretary of state* has the custody of all the books, records, deeds to the state, parchments, maps and papers to be deposited in his office. He receives from the legislature bills that have become laws, and causes them to be published. He distributes the printed laws and journals of each session, among the members of the legislature, the executive and judicial officers, the county and town clerks, and other officers entitled to receive them. Four copies are also sent to the secretary of state of the United States. The secretary of state has a deputy, who may perform the ordinary duties of his office. The secretary of state performs the duties of superintendent of common schools. For the duties of both of these offices, he has a salary of \$1500. The deputy secretary receives \$1000: he serves as clerk, also, of the commissioners of the land office.

463. The *comptroller* superintends the fiscal or pecuniary matters of the state. He exhibits to the legislature, at its annual meeting, a statement of the funds of the state, of its revenue, and of the expenditures during the preceding year, with an estimate of the expenditures to be defrayed from the treasury the ensuing year, specifying the objects to be provided for by law. He also suggests plans for improving and managing the revenues; keeps and settles all the accounts of the state; and draws war-

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are their duties? What is their compensation? 461. What are the other principal executive officers? 462. What are the duties of the secretary of state? What is his salary? That of his deputy? 463. What are the duties of the comptroller? His salary? That of

rants on the treasurer for the payment of all moneys directed by law to be paid out of the treasury: and he may, in behalf of the people of the state, when necessary, borrow money to pay demands against the state. Leases, mortgages, bonds, and other securities given to the state, are kept in his office. He has a deputy who may perform most of the duties of his office. The salary of the comptroller is \$2500; that of his deputy, \$1500.

464. The *treasurer* receives all moneys paid into the treasury of the state. He is required to give a bond in the sum of fifty thousand dollars, with four or more sureties, for the faithful performance of his duties. He deposits the money that comes into his hands, in such banks in the city of Albany, as shall be deemed safe, and shall pay the highest rate of interest to the state; and he pays all warrants drawn on the treasury by the comptroller. The salary of the treasurer is \$1250; that of his clerk, \$800.

465. The *attorney general* prosecutes and defends all the suits in which the state is interested. And he may not act as attorney in any private suit, unless the people of the state be interested in the event. He receives a salary of \$1000.

466. The *surveyor general* superintends surveys and sales of lands belonging to the state. He keeps in his office a map, and when the bounds of a town cannot be delineated, he may order a special survey to determine disputes. He has a salary of \$500 a year.

467. There is appointed by the legislature a *state printer*, by whom all printing required by the legislature to be done for the state, or its executive officers, shall be executed, unless otherwise especially provided by law. He is required to be a printer of a newspaper, in the city of Albany, which shall be deemed the state paper, and shall be published daily, weekly, or semi-weekly, at his discre-

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his deputy? 464. What are the duties of the treasurer? His salary? That of his clerk? 465. What are the duties of the attorney general? His salary? 466. What are the duties of the surveyor general? His salary? 467. How is the state printer appointed? What

tion, in which every law must be published. The state printer prints a certain number of copies of the journals of each house, for the use of the members, and for distribution throughout the state; and also a specified number of copies of every bill, report, memorial, or other document, ordered by either house to be printed.

468. The salaries of the preceding, and other officers of the government, legislative, executive and judicial, together with other expenses in administering the government of the state, are paid out of the general fund. The *general fund* consists of the stocks, debts, and other property of the state, together with the increase and revenue thereof; all moneys paid into the treasury for duties on peddlers; and the fees of offices received by the secretary of state, the comptroller, and the surveyor general. These officers receive fixed salaries; and their fees, which are established by law, are paid into the treasury, and constitute a part of the general fund.

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## CHAPTER VI.

### *Judicial Department.*

469. No government can be said to be complete in which provision is not made for the effectual administration of justice. The end of all judicial power is, first, to oblige citizens to do what they should do between themselves, and to make reparation for wrongs; and, secondly, to punish them for crimes, and offences against the community. It must therefore be of the first importance, that persons possessing the soundest judgment, and unyielding integrity, be always selected to exercise this power. To secure this object, the constitution has made ample provis

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are his duties? 468. How are the expenses of the state officers paid? Of what is the *general fund* composed?

ion in the general government ; and the state constitutions, generally, embrace similar provisions.

470. The several courts constituting the judiciary of the state of New York, are the following : court of errors, court of chancery, supreme court, circuit courts, courts of common pleas and general sessions, courts of special sessions and justices' courts.

471. The *court of errors* consists of the president of the senate, the senators, the chancellor, and the justices of the supreme court. As a court of errors, its business is to decide cases brought by appeal from decrees in chancery, and by writ of error from judgments of the supreme court. Upon questions affecting the merits of the cause, or any point decided in either of the latter courts, the chancellor or the justices, from whose decision the appeal is brought, have no voice in affirming or reversing the decree or judgment. It has full power to correct and redress all errors that may happen in those courts. The judgment of the court of errors is remitted to the lower court from which the appeal was brought, where proceedings shall be had to carry the appeal into effect. This court also tries impeachments.

472. The powers of the *court of chancery* are vested in the chancellor. Every circuit judge is vice chancellor within the limits of his circuit, and has all the original powers vested in the chancellor, in matters that arise in his own circuit, or wherein the defendants, or either of them, reside within it, subject, however, to the appellate jurisdiction of the chancellor. And all appeals from any order or decree made by a vice chancellor to the court of errors, must first be reviewed by the chancellor, and by him reversed or affirmed, except in cases wherein the latter is interested.

473. The original intention of instituting this court, was to supply the defects of the common law ; and its jurisdic-

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469. What is the object of all judicial power? 470. What courts compose the judiciary of this state? 471. Of what officers is the court of errors composed? What are its powers? 472. In whom are the powers of the court of chancery vested? 473. For what



tion extends to all cases in which the common law affords no relief, or not that relief which equity requires. If a person refuse to fulfil or execute a contract for the sale of land, the vendor may sue at common law, and obtain damages; but to compel the performance of the contract, a decree of the chancellor is requisite; and if the vendor will not execute a deed of conveyance, the same may be done by a *master in chancery*, of whom one or more are appointed in every county, and who perform many other duties, by order of, and as assistants to, the chancellor: stating accounts, estimating damages, administering oaths, taking affidavits, selling land, &c.

474. This court also, by *injunction*, prohibits persons from doing acts that are against equity. A judgment debtor may be restrained from disposing of his property; banks may be restrained from doing further business in case of supposed insolvency or unfairness in their operations; proceedings in law may be stayed; persons may be restrained from committing wastes or injury on lands; and many other like restraints are imposed, and protections afforded, by injunction. The chancellor has the power also of dissolving marriage contracts, and of decreeing divorces.

475. In this court, no process is issued, until a bill of complaint shall have been filed by the plaintiff with the clerk of the court, who then issues a subpoena, commanding the party complained of to appear before the court on a day mentioned in the subpoena. The defendant makes his answer, also in writing. Witnesses are examined on both sides. These proceedings are had before an *examiner in chancery*, who transmits them, with all the testimony, to the vice chancellor for adjudication. If the defendant does not appear to answer to the complaint, the decree of the court is made upon the facts set forth in the complainant's bill.

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general purpose was this court instituted? What are the duties of a master in chancery? 474. For what purposes are injunctions laid? 475. What is the course of proceeding in a chancery suit?

476. *Solicitors in chancery* are in the nature of attorneys in courts of common law; they manage the pleadings, prepare questions for witnesses, and do every thing that is done in a cause where the party does not appear in person. Masters and examiners in chancery are appointed for every county in the state, by the governor and senate, for the term of three years; clerks are appointed, and solicitors are licensed, by the court.

477. The principal business of the *supreme court* is to review the proceedings of the lower courts, in cases that have been brought before it by appeal. It holds four terms annually. Issues involving sums in controversy exceeding fifty dollars, are joined in the supreme court.

478. The state is divided into eight senate districts; in each of these there is a judge, who holds annually at least two *circuit courts*, and courts of oyer and terminer and jail delivery, in every county. He has power, and it is his duty, to try issues joined in the supreme court; to record all non-suits and defaults before him; and to return the proceedings into the supreme court. His duty as judge at the court of oyer and terminer, is to try crimes and misdemeanors, committed or triable in the county. He has power to try all indictments found in the court of general sessions. Crimes and misdemeanors of the highest grade, are tried in this court.

479. A *court of common pleas*, consisting of a first judge and four associate judges, is held in every county, and has power to try actions arising within the county, and all transitory actions, although the same may not have arisen within the county; and to hear and determine appeals from justices' courts. It has also the power to try issues joined in the supreme court, as the circuit court. Any three judges of the county courts have power to hold a court of common pleas, or of general sessions of the peace.

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What are the duties of an *examiner*? 476. What are *solicitors* in chancery? How are the several officers of this court appointed? 477. What is the business of the supreme court? How constituted? (See constitution.) 478. How are circuit courts constituted? What are their powers? 479, 480. How are courts of common pleas

480. When a sufficient number of judges shall not appear at a *court of general sessions*, justices of the peace shall be associated with a judge or judges. This court has power to try and punish all crimes and misdemeanors not punishable with death, or imprisonment for life; and to send all indictments for offences not triable therein, to the next court of oyer and terminer and jail delivery for trial. The duties of this court are numerous.

481. The salaries and compensation of judicial officers are as follows: The chancellor and the three justices of the supreme court have a salary of \$2500 each; the circuit judges, \$1600 each; senators as members of the court of errors, when the legislature is not in session, have the same compensation as is received by members of the legislature. Judges of county courts receive two dollars a day, during their attendance at court.

482. A *court of special sessions*, consisting of three justices of the peace, or two justices and one judge of the county court, may be held for the trial of certain offences against the peace.

483. For the administration of justice in the several cities in this state, or most of them, special provisions are made by law; and their courts are in many respects differently constituted from those in the several towns and counties in the state.

484. Juries for the trial of issues of fact are thus obtained: The supervisor, town clerk and assessors of the several towns, make a list of persons to serve as jurors, who shall be free from all legal exceptions, of approved integrity, of sound judgment and well informed. The names of these persons are transmitted to the county clerk; from which he draws, fourteen days before the holding of every court, the names of thirty-six persons to serve as jurors, and any additional number that shall have been ordered. The slips of paper on which the names are

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and general sessions constituted? What are their powers? 481. What is the compensation of the several judicial officers? 482. Of what do courts of special sessions constitute? 483. What provision is made for administering justice in cities? 484. How are lists

written, are put into a box, and shaken so as to mix them as much as possible; and they are then drawn out by the clerk, in presence of the sheriff and a judge of the county. The list so drawn is then delivered to the sheriff, who summons the persons named therein to attend the sitting of the court. These are called *petit jurors*, twelve of whom sit on every trial, and all must agree in order to conviction or judgment.

485. *Grand jurors* are obtained in the same manner as *petit jurors*, except that the list is prepared by the supervisors at their annual meeting. Not more than twenty-three, nor less than sixteen persons, are sworn on any grand jury. One of their number is appointed by the court as foreman, who administers the oaths to witnesses appearing to testify before the jury. Every grand jury appoints one of their number to be clerk. The minutes are preserved and delivered to the district attorney, when so directed.

486. It is not the business of grand juries to try issues. They attend during the sitting of the courts, to hear complaints that may be brought before them for breaches of the peace, or for crimes; and declare whether or not the person complained of shall be put upon his trial. If twelve of the jurors are of opinion that he ought to be tried, the district attorney draws up an *indictment*, stating the crime charged upon him. The foreman signs in behalf of the jury, and it is carried by the jury to the court. The accused is then called to be put upon trial. If he has never been arrested, a warrant is issued to arrest him; and if he be not ready for trial he is put into prison, unless he give bail for his appearance for trial at the next court. On indictment for capital offences, this privilege may not be given.

487. *Justices' courts* are courts of the most limited jurisdiction, and are held by the justices elected in each

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of *petit jurors* prepared? How many are drawn? By whom? In what manner? 485. How are lists of *grand jurors* prepared? What number may be sworn to serve? 486. How is the business of the jury conducted? What number must be agreed in order to

town. They have power only to try causes wherein the damages claimed do not exceed fifty dollars; excepting that, in actions commenced by attachment of property, wherein the damages claimed do not exceed one hundred dollars, they have jurisdiction; and they may also take and enter judgment on confession of a defendant for the sum of two hundred and fifty dollars. But they have no power to try assault and battery, false imprisonment, slander or malicious provocation; nor any matters wherein the sum total of the accounts of both parties is more than four hundred dollars. Any justice being a tavern keeper, shall have no power other than that of issuing executions upon judgments rendered by him before he became so disqualified.

488. Actions must be brought before some justice of the town wherein either a plaintiff or defendant resides, or of the town next adjoining. But if a defendant has absconded, the suit may be brought before a justice of the town wherein the defendant or his property may be. If the plaintiff or defendant be a non-resident of the county, the suit may be brought in the town wherein the plaintiff or defendant may be.

489. Either party thinking himself aggrieved by a judgment rendered before a justice, for damages not exceeding twenty-five dollars, may remove the same by a writ of *certiorari*, to the court of common pleas. And if the judgment exceed that amount, the party to the judgment may *appeal* therefrom to the said court. In a case brought by *certiorari*, the judges act without jury, and give their judgment upon the affidavit of the party removing the suit, and the return of the justice, in which the testimony and proceedings before the justice are set forth. Issues of fact brought up, on appeal, are tried by a jury, or referred in the same manner as an original suit. Juries are allowed in all cases in justices' courts, if desired by either party.

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indict? 487. How far does the jurisdiction of a justice's court extend? In what case does a justice become disqualified? 488. Where must actions be commenced? 489. How are causes removed in the court of common pleas?

## CHAPTER VII.

*Of Counties.—County Officers—their Powers and Duties.*

490. FOR the more convenient administration of justice, it has been found necessary to divide states of any considerable extent, into districts, with administrations adapted to the management of their local affairs. The first grand division in these United States, is into *counties*, or *shires*: these are again subdivided into *towns*. These districts correspond to similar institutions in England, the country of our ancestors.

491. A county or town, as a body corporate, has certain powers and rights. A *corporation* or body politic, means a number of persons formed or *incorporated* into one body, with the power of acting under one name. The word *corporation* is derived from the Latin, *corpus*, meaning body. Corporations have a perpetual succession. For, when the persons constituting a corporation shall have passed off, and been succeeded by others, the corporation will still exist. Every state, county or town, as well as every bank or turnpike company, acting under a common name, by virtue of a public law, is a corporation.

492. Each county in the state has a capacity to sue and be sued; to buy and hold lands within its own limits; to buy and hold such personal property as may be necessary to the exercise of its corporate powers; and to make such orders for the regulation and use of its property as the interests of its inhabitants may require.

493. The principal county officers are, the board of supervisors, a county treasurer, a clerk, a sheriff, four coroners, a surrogate, and a district attorney.

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490. How are states divided? For what purpose? 491. What is a *corporation*? 492. What capacity or powers does a county possess? 493. What are the principal officers appointed and elected in

494. The *board of supervisors* consists of the supervisors of the several towns in the county, who meet annually on a day designated by law, which is, in most of the counties, in the month of October or November; and they may also hold special meetings whenever it may be necessary. Their duties and powers are, to make orders respecting the corporate property of the county; to examine and settle the accounts against the county, and to order the raising of money to defray its expenses; to provide for repairing the court house and jail, and fitting them for the purposes for which they are required. They choose one of their number, at every meeting, to preside as chairman, and appoint some proper person to be their *clerk*, whose duty it is to record the proceedings of the board, and to preserve and file all accounts passed upon by the board.

495. The *county treasurer* is appointed by the board of supervisors, and holds his office at their pleasure. He gives a bond, with surties, for the faithful execution of his duties. It is his duty to receive all moneys belonging to the county, and all moneys belonging to the state, that are by law directed to be paid to him; and to pay and apply such moneys in the manner required by law, and to render a true account thereof to the board of supervisors and to the comptroller of the state when required.

496. The *county clerk* is elected by the people at the annual election, and holds his office for three years. He has the custody of all the books, records, deeds, parchments, maps and papers, relating to the business of the office. He records, in books prepared for that purpose, all deeds, mortgages, or other conveyances, and all papers and documents required by law to be recorded. He also files all papers required to be filed in his office. He appoints a *deputy clerk*, who is authorized to perform the duties of the office. County clerks, except in the county of New York, serve also as clerks of the county and circuit courts held in their respective counties.

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each county? 494. What are the powers and duties of the board of supervisors? Of their clerk? 495. How is the county treasurer appointed? What are his duties? 496. How is the county clerk

497. *Sheriffs* also are elected at the annual election in November, for three years. they may not be re-elected for the next three years. A sheriff is required to give a bond, with sureties, in the penal sum of twenty thousand dollars, for the faithful performance of his duties; and this bond is to be renewed every year. He appoints an under sheriff, who performs the duties of sheriff when the office shall be vacant, and as many deputies as he may think proper. It is the duty of the sheriff to attend the sitting of all courts held in the county; to serve all processes directed to him by any of the state or county courts; to have the custody of the jails and prisons, and the prisoners in the same. Executions issued out of any courts in the state, against the property of any person, are directed to the sheriff of the county in which the person resides.

498. When a person has been slain, or has suddenly died, or has been dangerously wounded, notice is given to the *coroner*, who goes to the place where such person shall be, and summons a jury to make inquisition respecting such death or wounding. Witnesses are also called, among whom there is a physician or surgeon. The jury, upon inspecting the body of the person dead or wounded, and hearing the testimony, deliver to the coroner their inquisition, in writing, stating in what manner the person came to his death, or was wounded. If a murder or assault has been committed, the coroner binds over the witnesses to appear and testify before the grand jury at the next criminal court to be held in the county. An examination of this kind, into the cause of a person's death, is called a *coroner's inquest*. Coroners also perform the duties of sheriff, when vacancies happen in the offices of both sheriff and under sheriff.

499. A *surrogate* is a person that is appointed to make inquiry into, and settle the estates of persons deceased. He examines witnesses to prove whether the wills made

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elected? What are his duties? Of his deputy? 497. How are sheriffs elected? What are their duties? What subordinate officers do they appoint? 498. What are the duties of coroners? What other duties sometimes devolve on them? 499. What are the du-



by such persons are valid or not. If he be satisfied that a will was executed as the law requires, he approves of it. If there be no will, or none that is legal, he appoints an administrator to dispose of the property, and settle the estate. The person exercising the duties of surrogate, is in some states called a judge of probate. *Probate* is a Latin word, meaning proof; and is used in law to signify the proving of a will. Surrogates, in this state, are appointed by the governor and senate.

500. The *district attorney* attends the courts over and terminer and jail delivery, and general sessions, and conducts all prosecutions for crimes cognizable in such courts. District attorneys are appointed by the judges of the respective county courts.

## CHAPTER VIII.

### *Of Towns.—Election of Town Officers—their Powers and Duties.*

501. Towns are made to comprise such portions of territory as will admit of a direct participation in their government by all the people. The government of a town is therefore purely *democratic*. Towns are incorporated by a general law of the state; and their organization is uniform, and their powers and privileges are the same, throughout each state.

502. A town, as a body corporate, may sue and be sued; buy and hold lands, within its own limits, for the use of its inhabitants; buy and hold personal property necessary to the exercise of its corporate powers; and make such orders for the disposition and use of its property, as the

ties of a surrogate? 500. What are the duties of a district attorney? How appointed?

501. Of what character is the government of a town? How are towns incorporated? 502. What are its corporate powers? 503. When

interests of its inhabitants may require. The electors of a town have power, at their annual town meeting, to direct money to be raised for town purposes; to establish the compensation of certain town officers; to make regulations as to fences; to direct what sum shall be raised in the town for the support of common schools; and to perform sundry other acts that relate to their internal affairs.

503. A meeting of the citizens qualified to vote, is held in each town in the state, on some Tuesday between the first Tuesday in February and the first Tuesday in May, in each year, for the election of town officers. The officers to be elected are, a supervisor; a town clerk; assessors, not less than three, nor more than five; a collector; two overseers of the poor; three commissioners, and three inspectors of common schools; constables, not more than five; a sealer of weights and measures; as many overseers of highways as there are road districts in the town: and so many pound masters as the electors may determine. All the town officers must be elected by ballot, except the sealer, overseers of highways, and pound masters; who may be elected, either by ballot, by ayes and noes, or by the rising and dividing of the electors, as the meeting may determine. All the officers voted for by ballot, shall be named in the same ballot.

504. The *supervisor* receives and pays over all moneys raised in the town for defraying town charges, except those raised for the support of highways and bridges, of common schools, and of the poor, where poor moneys are raised. He prosecutes for penalties of fifty dollars or under; keeps account of moneys received and disbursed by him, and accounts annually to the justices and town clerk; attends the annual meeting of the board of supervisors of the county; and lays before such board all accounts presented to him against the town.

505. The *town clerk* keeps the records, books and papers of the town, and files all papers required to be filed

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are town meetings in the state of New York held? What officers are chosen? How are they voted for? 504. What are the powers and duties of a supervisor? 505. What are the duties of a town

in his office, and records the minutes of the proceedings of town meetings.

506. It is the duty of every member of the community to contribute to its support and prosperity. This duty results from the relations of men in civil society. Where-soever this duty exists, there exists also, of necessity, the right to enforce it. Taxes, to be equitable, ought to be laid, not upon persons, but upon the property possessed or used by individuals. It is upon this principle that taxation is founded in this country.

507. All lands, and all personal estate, are liable to taxation in this state. *Lands, real estate, and real property*, have the same meaning, and include land with all buildings, and other articles erected or growing thereon. *Personal estate and personal property*, include all household furniture, moneys, goods, chattels, debts due from solvent debtors, &c.

508. *Assessors* pass through the town, and set down the names of all taxable inhabitants, and the value of all the real and personal property of each, deducting from his personal property the debts owing by him. After the assessment roll shall be completed, notices shall be put up in three or four places in the town, stating that the assessment roll is completed, and left with one of their number, to be designated in the notice, where the same may be examined by any of the inhabitants during twenty days; at the expiration of which time, the assessors meet at the time specified to review their assessments. Persons who conceive themselves aggrieved by too high a valuation of their property, make affidavit of its true value; and the assessors then reduce their assessments accordingly.

509. The assessment rolls of the several towns in the county are examined by the board of supervisors at their annual meeting; whose duty it is to equalize the valuations of one town with those of another. The tax is then estimated, which is done by a clerk appointed for that

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clerk? 506. What is the proper principle of taxation? 507. What is *real property*? *Personal property*? 508. How are assessments made? 509. By whom are the assessment rolls examined? Who

purpose, and set down opposite the name and amount of the property of each individual on the roll. A copy of the assessment roll is then delivered to each of the supervisors, who delivers it to the town clerk of his town, to be kept for the use of the town, and another copy is to be delivered to the collector of the town by the fifteenth day of December; to which roll is annexed a warrant, under the hands and seals of the board of supervisors, commanding him to collect from the several persons named in the roll, the amount of tax opposite their respective names.

510. The *collector*, upon receiving the tax list and warrant collects the taxes. If any person shall refuse or neglect to pay the tax imposed on him, the collector shall levy the same by distress and sale of the property of the person from whom the tax is due. The collector is required to pay out of the moneys by him collected, to the commissioners of common schools, overseers of the poor, (where there is no poor house in the county,) commissioners of highways, and the supervisors, the sums required in the warrant to be paid to them; and the remainder is paid to the county treasurer; the collector first retaining the compensation to which he is entitled.

511. It is the duty of the *overseers of the poor*, on application being made to them for the relief of poor or indigent persons, to provide for their support in the town; or, in a county in which there is a poor house, for their removal to the poor house of the county, to be supported at the expense of the county.

512. The *commissioners of highways* have the care and superintendence of the highways and bridges in the town: and it is their duty to alter and lay out roads, and build bridges, and to cause them to be repaired. They divide the town into so many road districts as are judged convenient, and require the overseers of highways to warn all persons in their respective districts to work on the highways, the number of days they shall have been assessed

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estimates the tax? 510. By what officer, and how, are taxes collected? 511. What are the duties of overseers of the poor? 512. What are the duties of commissioners of highways? 513. What are the

by the commissioners. Every person owning or occupying land in the town, and every male inhabitant of the age of twenty-one years, residing in the town where the assessment is made, may be assessed to work on the highways.

513. The *commissioners of common schools* divide their town into school districts, number them, and deliver the numbers and description thereof to the town clerk to be recorded. They also apportion the school moneys received by them, among the several districts. Commissioners are authorized to serve as inspectors of schools.

514. The *inspectors of common schools* examine all persons offering themselves as teachers; and if they are satisfied as to the qualifications of a candidate, in respect to moral character, learning and ability, they deliver to him a certificate signed by them, stating that they believe him to be duly qualified. It is also made their duty to visit all the schools in their town, at least once a year, to examine into their state and condition, and to give their advice as to the government of the schools, and the course of studies to be pursued in them.

515. The duties of a *constable* are very numerous. His principal duties are, to serve all processes issued by justices of the peace, of a civil and criminal nature, to collect debts on execution, to aid in keeping the peace, and to apprehend and secure criminals. He is properly an *executive* officer, as his business relates to the execution of the laws.

516. Four *justices of the peace* are chosen in each town in the state, (except in cities,) whose duty it is to administer justice in the town in which they are chosen. As these are judicial officers, their powers and duties may be considered as more properly falling under the head of "Judiciary," or "Courts of Justice."

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duties of commissioners of common schools? 514. What are the duties of inspectors of common schools? 515. What are the duties of constables? 516. What are the duties of justices of the peace?

517. In this state, the election of all public officers by the people at large, is by *plurality*; that is, the person is elected who has more votes than any other, although he has not a majority of the whole. In some of the states, a majority of all the votes given, is necessary to a choice: this is called election by *majority*. It is objected to the mode of election by plurality, that a candidate may be elected by a minority of the voters, as is often the case when there are three or more candidates. But it is believed that this objection is more than counterbalanced by the difficulty of effecting an election, which is often experienced where the majority system prevails. When parties are numerous, and nearly equally balanced, it is impossible to elect the candidate of either, while each adheres to its own: and the consequence is, that such districts sometimes remain for a long time unrepresented in the state and national councils.

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517. What mode of election prevails in this state? What is meant by election by *plurality*? What is election by *majority*? What are the objections to these respective modes?

## PART FIFTH.

### OF THE CIVIL JURISPRUDENCE OF THE UNITED STATES.

#### CHAPTER I.

##### *Of the Rights of Persons.—Absolute Personal Rights.*

518. The rights of persons are usually considered to be of two sorts, absolute and relative. By *absolute* rights are meant those which belong to men as individuals or single persons, or those which would belong to their persons in a state of nature, and which every man is entitled to enjoy, whether out of society or in it. These rights are resolved into the right of personal security, the right of personal liberty, and the right to acquire and enjoy property. Rights called *relative* are those which are incident to men as members of society, and as standing in various relations to each other.

519. But although a distinction clearly exists between these two classes of rights, it would seem that they are imperfectly distinguished by the terms absolute and relative: because, the rights termed absolute, though they are founded in the law of nature, and are inherent and unalienable, may be forfeited and lost by the commission of crime. Besides, what would be the rights of man, were he excluded from all society? The idea of right always pre-

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518. Into what two classes are the rights of persons distinguished?  
519. In what consists the difference in these classes of rights?

supposes some existing *relation* between persons. Both classes are therefore in some respects relative, and neither is in all respects absolute. Yet, as the one class, being founded in the primary, universal and permanent relations of social nature, cannot be alienated by voluntary transfer; and as the other class arises from the civil and domestic relations, which a man has the liberty and capacity of forming and changing, they have been generally, and with a considerable degree of propriety, distinguished as absolute and relative.

520. To protect mankind in the enjoyment of their rights, is the object of law. The law existing in this country, by which the rights of individuals are secured, is the *common law of England*, which was brought hither by our ancestors. This law has been adopted, and declared in force, by the constitutions of some of the states, and by statute in others; and where it has not been so explicitly adopted, it is nevertheless to be considered the law of the land, in all cases in which it has not been altered by statute or usage.

521. The absolute rights of personal security and personal liberty, were privileges peculiarly dear to English freemen. The colonists claimed these privileges as natural and unalienable rights, of which they, as British subjects, could not be deprived. These rights were frequently asserted and declared during their colonial dependence; and provisions most effectually securing these rights, have been transcribed from the fundamental acts of the British parliament, into our national and state constitutions. [See cons. U. S. art. 1, sec. 9, clauses 2, 3; art. 3, sec. 2, cl. 3; sec. 3; amendments, art. 4, 5, 6, 7, 8.]

522. The personal security of every citizen is further protected by the law by which a man, on showing reasonable cause, may require his adversary to be bound to keep the peace. And if violence has been committed, the offender may be prosecuted in behalf of the state, and

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520. By what law are the rights of individuals secured? 521. From what were the provisions securing these rights transcribed into our state and national constitutions? 522. How is the personal security



punished; and he is also bound to render to the party aggrieved compensation in damages.

523. The law affords additional protection to this right by permitting a man to exercise the natural right of self-defence. Homicide is pronounced justifiable in cases in which it is necessary in self-defence, against a person who comes to commit a known felony with force against one's person, habitation or property, or against the person or property of those who stand in near domestic relations. But homicide is not strictly justifiable in defence of a private trespass, nor upon the pretence of necessity, when the party is not free from fault in bringing that necessity upon himself.

524. Personal security includes the preservation of a man's good name from injury by slander or detraction. The *slander* of a person by words, is a civil injury for which damages may be obtained. The injury consists in falsely and maliciously charging another with the commission of some public offence, or the breach of some public trust, or with any matter in relation to his trade or vocation, which, if true, would render him unworthy of employment; or with any other thing by which special injury is sustained.

525. A slander communicated by writing or printing, is calculated to have a wider circulation, to make a deeper impression, and to become more injurious. Words, therefore, may be libellous if printed, which would not be actionable if spoken. A *libel* is defined to be a malicious publication, in printing or writing, signs or pictures, tending either to blacken the memory of one dead, or the reputation of one alive, and expose him to public hatred, contempt or ridicule. And the law considers it a public as well as private injury, and makes the offender both liable to a private suit for damages, and answerable to the state by indictment.

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of our citizens protected? 523. What additional protection is afforded? 524. In what does the injury of slander consist? 525. What is slander defined to be? What is the difference in the effect of slander by writing or printing, or by words? 526. What is the law

526. It is the established principle of the English law, that the truth of the matter charged as libellous, cannot be shown by way of justification; because, whether true or false, it is equally dangerous to the public peace: and it is presumed that the publication is made with a malicious intent. The judicial decisions seem to have established the same doctrine in this country, except where it has been controlled by constitutional and legislative provisions.

527. But to give a wider latitude to the liberty of the press, special provision has been made in several of the states by statute, and in others by their constitutions, in favor of giving the truth in evidence in public prosecutions for libels. The constitution of New York declares, that the truth may be given in evidence to the jury; and that if it shall appear to the jury that the matter charged as libellous is true, and that it was published with good motives, and for justifiable ends, the party shall be acquitted. Public opinion in this country, seems to be pretty generally in favor of this principle.

528. The opinion seems to prevail, that, in private actions for damages, the truth may, in all cases, be pleaded in justification; inasmuch as private action rests upon the injury sustained. There exists, however, a contrariety of opinion on this point; and indeed, it is not easy to perceive any good reason for this distinction between cases of public and private prosecution. Justice would seem to require, that in either case, the object of inquiry should be the good or evil intentions of the publisher.

529. The right of personal liberty is guarded with equal effect, by the national constitution, to which the laws and constitution of every state must necessarily conform. Every restraint upon a man's liberty, the law considers an imprisonment; and whenever a person is detained with or without due process of law, unless for

respecting admitting the truth as a justification of a libel? 527. What special provisions in relation to this subject, have been made in the states? 528. In what actions may the truth be admitted in all cases? 529. How is personal liberty secured? 530. What is

treason or felony specially expressed in the warrant of commitment, or unless such person be a convict, or legally charged in execution; he is entitled to his writ of *habeas corpus*.

530. The statute of New York requires that the application for this writ must be to the supreme court, or chancellor, or a judge of the court, or other officer having the powers of a judge at chambers; and that it be by petition, in writing, signed by or on behalf of the party. It must also state the grounds of the application; and the facts must be sworn to. If the person on whom the writ is served shall not promptly, without sufficient excuse, produce the party imprisoned, he is liable to be forthwith attached and committed to close custody, until he shall have obeyed the writ.

531. If a person has been discharged upon *habeas corpus*, he cannot be reimprisoned for the same cause but it is not deemed the same cause, if the discharge was granted for the want of sufficient proof, or for a defect in some of the proceedings in the case. The law makes the reimprisonment of a party duly discharged, a misdemeanor, subjecting the offender to fine and imprisonment, and a penalty of \$1250, to be paid to the party aggrieved.

532. Persons confined upon a criminal charge, who shall not have been indicted, must be discharged within twenty-four hours after the discharge of a grand jury of the county, unless cause be shown for the delay. And prisoners indicted, unless tried at the next court after the indictment is found, are entitled to be discharged, unless the public prosecutor show satisfactory cause for delay. If there be good reason to believe that any person illegally confined, will be carried out of the state, before he can be relieved by *habeas corpus*, both the prisoner, and the party detaining him, may be brought up for examination, before the court or officer authorized to issue the writ, to

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the manner of applying for, granting, and serving the writ of *habeas corpus*? 531. In what cases may a person be re-imprisoned for the same cause? 532. What does the law further provide

be dealt with according to law. The above provisions in relation to habeas corpus, from the Revised Statutes of New York, are, with some slight exceptions, the law of every state in the union.

533. Freedom of religious opinion and worship, is one of the absolute personal rights, secured by the constitutions and laws of this country. The general government is expressly prohibited from making any law respecting the establishment of religion, or prohibiting its free exercise; and the state constitutions have adopted the same principle.

## CHAPTER II.

### *Of the Domestic Relations.—Husband and Wife.*

531. THE relation of husband and wife, as it is the most important of the domestic relations, will be first considered. Marriage, to be valid in law, requires the consent of parties capable of contracting. No persons are capable of binding themselves in marriage, until they have arrived at the age of consent, which, by the common law of the land, is fixed at fourteen years in males, and twelve in females. Idiots and lunatics cannot legally contract marriage.

535. No person can re-marry while the former husband or wife is living. Such second marriage is null and void, except in the following cases: when the husband or wife of the party who re-marries, remains without the United States for five years together, or when one of the married parties shall have absented from the other for five successive years, and the one re-marrying not knowing

respecting the confinement and discharge of persons imprisoned?  
533. How is religious freedom secured?

531. At what ages are parties capable of contracting marriage?  
535. In what cases are second marriages declared by law to be

that the other, who had been absent, was living within that time; or when the person re-marrying was, at the time of such marriage, divorced by the sentence of a competent court; or if the former husband or wife of the party re-marrying, had been sentenced to imprisonment for life.

536. In any but the above excepted cases, a second marriage is not only void, but in most, if not all of the states, it is a statute offence, punishable by imprisonment. Bigamy, more properly termed polygamy, is in some countries made a capital crime.

537. Though no penalty applies to the cases above excepted; yet, if the former husband or wife be living, though the fact be unknown, and there be no divorce *a vinculo* duly pronounced, or the first marriage has not been duly annulled; the second marriage is void. *A vinculo matrimonii*, Latin, means "From the chain or tie of marriage." A final divorce. Where there is no statute regulation, the principle of the common law in all civilized and Christian countries, is, that nothing but death, or a decree of a competent court, can dissolve the marriage tie.

538. Marriage between near relations is unnatural and unlawful, as leading to a confusion of rights and duties: but it is not easy to ascertain the precise point at which the laws of nature have ceased to discountenance the union. The statute of New York declares marriage between the ascending and descending lines, and between brothers and sisters of the half as well as of the whole blood, to be incestuous and void; and to be indictable offences, punishable by imprisonment in a state prison for a term not exceeding ten years.

539. A simple consent of the parties is all that is required to render marriage valid; and this consent may be declared before a magistrate, or simply before witnesses,

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void and unlawful? 536. How is bigamy punishable? 537. What is divorce *a vinculo*? What is the principle of common law about dissolving marriage? 538. What marriages are declared incestuous by the laws of New York? 539. What contract renders mar-

or subsequently acknowledged; or it may be inferred from continual cohabitation and reputation as husband and wife. Regulations have been made by law, in some of the states, for the due solemnization and proof of marriage; but where such provisions have not been made, the contract is, in this country, under the government of the English common law.

540. A lawful marriage can be dissolved only by the death of one of the parties, or by divorce. In some of the states, no divorce is granted but by a special act of the legislature; in others, intolerably ill usage, or wilful desertion, or unheard of absence, will authorize a decree for a divorce.

541. The husband and wife are in law regarded as one person; and the husband, upon marriage, becomes seised of the freehold of his wife, and takes the rents and profits during their joint lives. It will be an estate in him for his own life, if he dies before his wife; and in that event, she takes the estate again in her own right. And if the wife dies first, and there be no children, her heirs succeed immediately to the estate. If there has been a child born alive, the husband takes the estate for life, and on his death, it goes to the wife or her heirs. During the continuance of the life estate of the husband, he sues in his own name for an injury to the profits of the land; but for an injury to the inheritance, the wife must join in the suit.

542. The husband acquires, by marriage, a right to all the chattels real of his wife, as leases for years; and he may, without her, sell, assign, or otherwise dispose of the same as he pleases: and they may be sold on execution for his debts. If he makes no disposition of the chattels real in his lifetime, he cannot devise them by will; and the wife, after his death, takes them in her own right. If he survives his wife, he acquires an absolute right to such chattels real.

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riage valid? 540. By what power are divorces effected? 541. What title does the husband acquire to the wife's real estate by marriage? 542. What right to her chattels real? 543. What title to her other

543. All other personal property also, belonging to the wife at the time of her marriage, becomes the property of the husband; and on his death it goes to his representatives. And he has power to sue for debts due to her by bond, note, or otherwise, which are termed *choses in action*; and when recovered, and reduced to possession, the money becomes his own.

544. The husband is answerable for her debts before coverture; but if they are not recovered during coverture, he is discharged. *Coverture* is the condition of a married woman, who, by the laws of the land, is in the power of the husband. If the husband dies before the debts are collected, his representatives are not liable; but the wife remains liable after her husband's death.

545. The husband is bound to provide for his wife the necessaries suitable to her situation, and his condition in life; and he is obliged to pay any debts which she may contract for such necessaries: but for any thing beyond necessaries, he is not chargeable. If the husband abandons his wife, or they separate by consent, or if he sends her away and refuses to provide for her wants; or, if she be so treated as to afford reasonable cause for her to leave his house; he is liable to fulfil her contracts for necessaries, even though he should have forbidden persons to trust her. If they live together, and the wife goes beyond what is prudent and reasonable, the tradesman trusts the wife at his peril.

546. A husband, dying in the lifetime of his wife, may, by will, cut her off from all his estate but a right of dower; that is, the right to have, for life, the use of one third of all the real estate which he owned during marriage, and whereof she has not barred herself by joining with him in a deed. A wife cannot devise her land by will; but she may dispose by will, or by act in her lifetime, of her separate personal estate, settled upon her, or held in

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personal property? 544. Is the husband answerable for his wife's debts contracted before marriage? Who is liable after his death? 545. In what cases is a man obliged to pay his wife's contracts? 546. What are their respective powers as to making wills?

trust for her. A will made by a female while single, who afterwards marries, becomes void.

547. Settlements made upon a wife, in pursuance of an agreement in writing, entered into before marriage, are valid both against creditors and purchasers. A settlement after marriage may be good, if made upon a valuable consideration. A voluntary settlement after marriage, upon a wife or children, without a valid agreement previous to the marriage, is void against creditors. But if the person be not indebted at the time, the settlement, if made without fraudulent intent, is good against after creditors.

548. The husband and wife cannot be witnesses for or against each other; but where the wife acts as her husband's agent, her declarations may be admitted in evidence to charge the husband.

549. A wife has no remedy for ill treatment from her husband till his conduct becomes criminal. And if she can make oath before a magistrate, that she is in fear of personal violence, he may be required to give bonds to keep the peace. But as the husband is the guardian of the wife, and bound to protect and maintain her, the law gives him a reasonable superiority and control over her person; and, if her conduct be such as to require it, he may even put gentle restraints upon her liberty.

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547. What is required to make settlements valid? 548. Can husband and wife be witnesses for or against each other? 549. What remedy does the law afford a wife against ill treatment from her husband?



## CHAPTER III.

*Parent and Child—Infants—Guardian and Ward—  
Master and Apprentice—Hired Servants.*

550. THE duties of parents to their children, as being their natural guardians, consist in maintaining and educating them during the season of youth and infancy; and the parent is obliged, during the minority of the child, which, in law, means *infancy*, or, of an age under twenty-one years, to provide for his support and education; and he may be sued for necessities furnished under just and reasonable circumstances. The father is bound to support his minor children, if he be of ability, even though they have property of their own; but this obligation, in such a case, does not extend to the mother.

551. The legal obligation of a father to maintain his child, ceases as soon as the child is of age, unless the child becomes chargeable to the public as a pauper; but the husband is not liable for the maintenance of the child of his wife by a former husband, nor for the support of his wife's mother. But if he takes the wife's child into his own house, he is responsible for the maintenance and education of the child so long as it lives with him.

552. A father is not bound by the contract of his son, even for articles suitable and necessary, unless an actual authority be proved, or the circumstances be sufficient to imply one: or unless a clear omission of duty on the part of the father renders assistance to the child necessary. The father has a right to the labor or services of his children, and he may sue any other person for the value of their labor performed for such person. The father is also entitled to the custody of their persons; and when they are improperly detained, he may obtain such custody by writ of *habeas corpus*.

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550. What are the duties of parents to their children? 551. When do these obligations cease? 552. What is necessary to make the father liable for the son's contracts? How may the father procure

553. Parents have a right to exercise all discipline necessary for the discharge of the duties they owe to their children. But courts of justice may, when the morals, or safety, or interests of the children require it, withdraw infants from the custody of their parents, and place them elsewhere.

554. The duties of children to their parents, are obedience and assistance. In the absence of any authority in the common law to enforce these duties, the Revised Statutes of New York have provided, that a parent may, by will, disinherit his ungrateful children; and compel the children, if they be able, to support and relieve their poor, lame, old or impotent parents, who cannot maintain themselves.

555. Infants, or minors, can do no act to the injury of their property, which they may not avoid or rescind, when they arrive at full age. Minors who contract debts, will be obliged to pay them, if they promise to do so, after they shall have become of age. Contracts for necessities are binding upon an infant; and he may be sued and charged in execution on such contract, provided the articles were necessary under the circumstances in which he was placed. But if he lives with his father or guardian, whose care and protection are duly exercised, he cannot bind himself even for necessities.

556. Minors are answerable for crimes: and they may be indicted and tried. Infancy does not protect fraudulent acts. If a minor takes an estate, and agrees to pay rent, he will be liable for its payment when he arrives at his majority. If he receives rents, he cannot demand them again when of age. If he pays money on contract, and enjoys the benefit of it, and then avoids it when he comes of age, he cannot recover back the consideration paid. And if he avoids an executed contract when he comes of

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the services, and the custody of the bodies of his children? 553. When may children be taken from their parents? 554. What are the duties of children to parents? 555. What is the capacity of a minor? 556. When and how is he compelled to fulfil certain con-

age, on the grounds of infancy, he must restore the consideration.

557. The relation of guardian and ward is nearly the same as that of parent and child. A father may dispose of the custody and tuition of his child during his minority, or for a less time, to another person, who thereupon becomes the *guardian*, and the infant is called *ward*. By the statute of New York, a minor having no guardian, may, at the age of fourteen years, apply to a surrogate for the appointment of such guardian as the minor may nominate. If the minor be under the age of fourteen years, a relative or other person, in his behalf, may so apply for the appointment of a guardian. A guardian in *socage*, that is, a guardian who has the custody of a minor's property as well as of his person, is required to keep safely such property, and to deliver the same to his ward when he arrives at full age.

558. By the statute of New York, male infants, and unmarried females under eighteen years of age, with the consent of proper persons, may bind themselves, in writing, to serve as apprentices to some art or trade; if males, until the age of twenty-one years, and, if females, until the age of eighteen years, or for any shorter time. Consent shall be given by the father: or, if dead, or not in a legal capacity, by the mother; and, if she refuse, or be not in a legal capacity, then, by a guardian duly appointed; or, if there be no guardian or other person, by the overseers of the poor, or two justices of the peace of the town, or a judge of the county court.

559. County superintendents of the poor may bind out any child under the ages above specified, who may be sent to the county poor house, or who is become chargeable to the county. In all indentures, by the officers of any town or county, binding poor children as apprentices or servants, a covenant must be inserted to teach them to read and write: and, if a male, the general rules of arith-

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tracis? 557. What relation exists between guardian and ward? What are a guardian's obligations? 558. To what age may apprentices be bound? By whose consent? 559. How is the educa-

metic. For refusal to serve and work, infants may be imprisoned in jail, until they shall be willing to serve as apprentices or servants. The above law in relation to master and apprentice, is supposed to contain the substance of the English statute law on the subject.

560. The relation between a master and a hired servant, rests altogether upon contract. The one is bound to render the service, and the other to pay the stipulated consideration. But if the servant hired for a definite term, leaves the service before the end of it, without reasonable cause, he loses his right to wages for the period he served. And he may be dismissed for cause, before the expiration of the term. The master is bound by the acts of his servant, either in respect to contracts or injuries, when the act is done by the authority of the master. If the servant does an injury fraudulently, while in the employment of his master, both have been held liable in damages; and if a servant employs another servant to do his business, and, in doing it, the servant so employed is guilty of an injury, the master is liable.

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## CHAPTER IV.

### *Of the Right of Property.—Real Property.*

561. A material object of government is to secure the right to acquire property, and to make use of it. Property, as stated in a preceding chapter, is either real or personal; the latter consisting of what is movable from place to place, the former, of lands and things built or growing thereon. Fruit, grain, trees, minerals, &c. become personal property, when separated from the land.

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tion of poor children provided for? 560. What relation subsists between the master and hired servant?

561. What is *real* property? *Personal* property? 562. Who may

562. Every citizen of the United States is capable of holding lands, and of taking the same by descent, devise or purchase; and of aliening or conveying away such estate. Estates in land are divided into estates of inheritance, estates for life, estates for years, and estates at will and by sufferance. An *estate of inheritance* is termed a fee simple, or fee. A fee is an estate of inheritance in law, belonging to the owner, and transmissible to his heirs. No estate is deemed a fee, unless it may continue forever. *Fee simple* is a pure inheritance, clear of any qualification or condition, and gives a right of succession to all the heirs generally, provided that they shall be of the blood of the first purchaser, and of the person last seised.

563. An *estate for life*, is an estate conveyed to a person for the term of his natural life. Estates for life and estates of inheritance, are called *freeholds*. An *estate for years* is a right created by a lease, or a contract for the possession and profits of land, for a determinate period, with the recompense of rent. An *estate at will* is where one man lets land to another, to hold at the will of the lessor. An *estate at sufferance* is where one has come into the possession of land by lawful title, but holds over by wrong, after his interest has ceased. He is not entitled to notice to quit, and he is not liable to pay rent. The landlord may dispossess such tenant whenever he pleases.

564. The real estate of any person who shall die without devising the same, shall descend, in the following manner: (1.) to his lineal descendants; (2.) to his father; (3.) to his mother; and (4.) to his collateral relatives. If any of the children of an intestate be living, and any be dead, the inheritance shall descend to the children living; and to the descendants of those who are dead; so that such descendants may inherit the share which their parent would have received, if living.

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hold real property? How are estates in land divided? What is an estate of inheritance? A fee? 563. What is an estate for life? An estate for years? An estate at will? An estate at sufferance? 564,

565. If the intestate shall die without lawful descendants, and leave a father, the inheritance goes to the father, unless the inheritance came to the intestate on the part of the mother. If he leaves neither father nor descendants, the inheritance descends to the mother; but if he leaves also a brother or sister, the mother holds it only during her life, and on her death, it descends to his brothers and sisters or their descendants. If he leaves neither descendants, nor father nor mother, the estate descends to his brothers and sisters or their descendants.

566. But if there be no heir to take the inheritance in either of the above cases, the same shall descend to the brothers and sisters of the father, if the property shall have come to the intestate on the part of the father. If his father has no brothers and sisters, the estate descends to brothers and sisters of his mother. If the property comes to the intestate on the part of his mother, her brothers and sisters have precedence: and if the inheritance has not come to the intestate on the part of either the father or mother, it shall descend, in equal shares, to the brothers and sisters of the intestate.

567. Persons become possessed of real estate in various ways: but evidence of such possession consists usually in a writing called a *deed*, signed and sealed by the person who had a right to execute it, acknowledged by a proper person, and recorded in the public registry. Every deed conveying real estate, though it is, when duly executed, binding as between the parties, is nevertheless void as against any person who may subsequently purchase the conveyed estate in good faith, and for a valuable consideration, and whose deed shall be first recorded. Deeds, mortgages, and other securities in the nature of mortgages, are recorded by the clerks of the several counties, in books provided for that purpose.

568. A mortgage is the conveyance of an estate, by way of pledge for the security of debt, and to become

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565, 566. How does the title to real estate descend to the heirs of persons having died intestate? 567. How is proof to the title of real estate obtained? Are deeds in any case obligatory before they

void on the payment of it. The condition upon which the land is conveyed is usually put in the deed of conveyance, but the defeasance may be contained in a separate instrument; and if the deed be absolute in the first instance, and the defeasance be executed subsequently, it will relate back to the date of the principal deed, and connect itself with it, so as to render it a security in the nature of a mortgage.

569. In order, however, to render the deed a security against subsequent purchasers and mortgagees, the deed and defeasance should be recorded together. An omission to have the defeasance registered, would make the estate, which was conditional between the parties, absolute against every person but the original parties and their heirs. The practice of placing the conveyance in fee, and the condition or defeasance which is to qualify it, in separate instruments, is liable to accidents and abuse, and injury to the mortgagee, and should be discouraged.

570. If the condition of a mortgage has been satisfied, the person in whose custody it may be, shall cause it to be discharged, whenever there shall be presented to him a certificate, signed by the mortgagee, acknowledged or proved, and certified as the law prescribes to entitle conveyances to be recorded, specifying that the mortgage has been paid. And every certificate of discharge shall be recorded.

571. When a deed or a mortgage has been executed, before it shall be recorded, the party executing it must acknowledge, before a commissioner of deeds, that he executed the same; and the commissioner subscribes a certificate of the acknowledgment on the margin or back of the instrument. In New York, commissioners of deeds, of whom there are at least two in each town, are appointed by the board of supervisors and judges of the

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are recd. 569. What is a mortgage? How is it executed? 569. What rule is to be observed in registering a mortgage? 570. When the condition of a mortgage is satisfied, how is it discharged? 571. What is essential to a deed before it is recorded? How are commissioners of deeds appointed?

county courts. Judges of the several courts in the state, also, are authorized to take such acknowledgments. If a married woman signs a deed, the acknowledgment must be made to the commissioner, apart from her husband, that she executed the same freely, and without compulsion from her husband. If any married woman refuses to execute a conveyance, she retains her estate in dower, against any person claiming the conveyed premises.

## CHAPTER V.

### *Of Personal Property—Contract of Sale.*

572. PERSONAL property is divided into chattels real and personal. *Chattels real* concern the realty, as a lease for years of land; and the duration of the time is immaterial. It is only personal estate, if it be for a thousand years. There are, also, many chattels which, though of a movable nature, yet, being attached to the freehold, and contributing to its value and enjoyment, go with it; as the shelves and fixtures in a house, and the posts and rails of an enclosure. But many things are now treated as personal property which seem, in a degree, to be attached to the freehold.

573. It has been established as a general rule, that things which a tenant has fixed to the freehold, for the purposes of trade or manufactures, may be removed, when the removal does not cause any material injury to the estate. Thus fats, coppers, tubs and partitions, belonging to a soap boiler, have been removed. Chimney pieces, and even wainscot, put up by a tenant; or a cider mill and press erected by him, may be removed if it can be done without material injury to the freehold.

572. What is personal property? What are chattels real? 573. What chattels attached to a freehold may be removed? and what



hand, iron stoves, fixed to the brickwork of the chimneys of a house, have been adjudged to pass with the house as a part of the freehold. The right of removal depends upon the mode of annexation of the article, and the effect which its removal would have upon the premises.

574. A title to personal property may be acquired in various ways. A person has a right to all that his property produces. Such are the fruits of the earth, the increase of animals, and the increase of stock invested in trade or manufactures. Property is also acquired by one's own act and power; as his literary property, consisting of maps, writings and books, mechanical inventions, produced by his intellectual and manual labor. Goods and chattels are obtained also by transfer by act of law; as by judgment on a recovery by law in an action of trespass or trover; and by gift, which, in some cases, gives a valid title.

575. To give validity to a gift, there must be a delivery, at least so far as the subject is capable of delivery. If the thing cannot be delivered, there must be an act equivalent to it. The donor must part with both the possession and dominion of the property. If the thing given be a *chose in action*, the law requires an assignment and the transfer must be actually executed. And gifts of goods and chattels, as well as of lands, with intent to delay and defraud creditors, are void, as against the person to whom the fraud would be prejudicial. All deeds of gift, and all transfers or assignments of goods or things in action, made in trust for the use of the person making the same, are void, as against creditors, existing or subsequent.

576. It is a principle in law, that no man can be deprived of his property without his consent; and that the honest purchaser is not safe under a defective title. No man can transfer to another a title to property which he does not himself possess. The title to property acquired by gift, does not pass from the true owner;

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may not? 574. In what ways is title to personal property acquired? 575. What is essential to the validity of a gift? 576. Can a

and he has a just claim to the property against any person purchasing the same.

577. Whether the possessor of land, who has taken possession in good faith, but who subsequently finds that his title was not obtained from the rightful owner, can recover the value of beneficial improvements which he may have made upon the land, is a question that has been much discussed. It is said to be the English law, and the common law of this country, that the owner can receive his land by ejectment, without paying for the improvements made upon it. The improvements are considered as annexed to the freehold; and every possessor makes such improvements at his peril.

578. Conflicting opinions have been expressed on this point, in the courts of England, and of this country; and statute provisions exist in some of the states, allowing, in certain cases, to the occupant, compensation for the improvements. But these are pronounced, by the author of *Commentaries on American Law*, encroachments upon the rights of property, as known and recognized by the common law of the land. And he further observes: "There are but very few cases in which a person may not, with reasonable diligence and cautious inquiry, discover whether a title be clear or clouded; and 'let the buyer beware' is a maxim of the common law which is exceedingly conducive to the security of right and title."

579. But private property must, in some cases, be made subservient to the public welfare. If a public highway be out of repair, a passenger may lawfully go through an adjoining private enclosure. It is lawful also, to demolish houses to prevent the spreading of a conflagration. The legislature has the control of private property for public uses. The Revised Statutes of New York authorize the cutting of roads through cultivated lands of individuals without compensation, provided it be done by town officers of their own authority.

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person be deprived of his property without his consent? 577, 578. Can a person claim compensation for improvements made on land occupied under a defective title? 579. In what cases is pri-

application of twelve freeholders; and the value of the lands, and amount of damages, must be assessed by a jury, and paid to the owner. It is an equitable provision in our constitutions, that private property shall not be taken for public use without just compensation.

580. A *contract* is an agreement between two or more persons by which the parties agree to do, or not to do, a particular thing. Contracts are *executory* when the stipulations remain to be executed; or when one party agrees to sell and deliver at a future time, for a stipulated price, and the other agrees to accept and pay. Contracts are express or implied. They are express, when parties contract in express words, or by writing; and implied, when an act has been done which shows that the parties must have intended to contract: as when a person employs another to do some service, it is presumed that the party employing intended to pay for the labor performed.

581. To render a contract binding, there must be a legal consideration: something must have been paid, or something given or done, as an inducement to the fulfilment of the contract. A contract to be valid, requires, (1.) that the thing sold has actually existence, and is capable of delivery; (2.) that a price be fixed, or susceptible of being ascertained without further negotiation between the parties; and, (3.) that there be a mutual consent of the parties to the contract, which is binding when a proposition made by one party is accepted by the other.

582. In the sale of a chattel as one's own property, if it be at the time in the possession of another, and there be no covenant or warranty of title, the party buys at his peril. But if the seller has possession of the article, and he sells it as his own property, he is understood to warrant the title. A fair price implies a *warranty of title*.

583. With regard to the *quality* of the thing sold, the seller is not bound to make good any deficiency, unless

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vate property made subservient to the public welfare? 580. What is a contract? What are executory, express, and implied contracts? 581. What is requisite to the validity of a contract? 582. 583. What is the law concerning warranty of title, and quality of

he expressly warranted the goods to be sound and good, or unless he made a fraudulent representation concerning them. But a *moral* obligation rests on every person knowingly to conceal no fault in any article he sells. And if there be an intentional concealment or suppression by one party of a material fact, in a case wherein the other has not equal access to means of information, the contract is void. But when both have equal means of information, and neither says nor does anything to impose on the other, a disclosure of facts is not necessary to make the contract valid.

584. When the terms of sale are agreed on, and the bargain is struck, the contract is absolute without the actual delivery; and the property, and the risk of accident to the goods, vest in the buyer. He is entitled to the goods on payment or tender of the price, and not otherwise, when nothing is said at the sale as to the time of delivery or the time of payment; for, though the vendee acquires the right *of property* by the contract of sale, he does not acquire the right *of possession*, until he pays or tenders the price. But if the goods are sold upon credit, and nothing is said as to the time of delivering the goods, the vendee is immediately entitled to the possession. To make a contract of sale valid, there must be a delivery, or tender of it, or payment, or tender of payment, an earnest given, or a memorandum in writing signed by the party to be charged; and if nothing of this kind takes place, it is no contract, and the owner may dispose of his goods as he pleases.

585. The statutes of New York contain express provisions on the subject of contracts. No agreement that is not to be performed within one year from the time of making it; no special promise to answer for the debt, default or miscarriage of another person; nor an agreement or promise upon consideration of marriage, except mutual promises to marry, shall be valid, unless such agreement, note or memorandum thereof, expressing the

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property sold? 584. When does the buyer's right of property commence? When the right of possession? 585. What contracts are

consideration, be in writing, subscribed by the party to be charged. Contracts for the sale of goods for the price of fifty dollars or more, are void, unless they be in writing; or unless the buyer receive a part of the goods or evidences, or pay, at the time, a part of the purchase money.

586. To prevent fraudulent transfers of property, it is provided that every sale or assignment of goods, by way of security, unless actual delivery be made, or possession changed, shall be presumed to be fraudulent, and shall be void as against the creditors of the vendor or assignor, or against subsequent purchasers in good faith; unless the persons claiming under the sale or assignment, make it appear that the same was made in good faith. And no assignment of goods and chattels, as security for any debt, is valid as against the creditors of the assignor, or purchasers in good faith; unless such assignment be under seal, and filed in the office of the town clerk of the town in which the assignor resides; or in the county clerk's office, if there be one in the town. And the assignment must be renewed at the expiration of one year from the date thereof, and from the date of each renewal.

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## CHAPTER VI.

### *Of Bailment—Principal and Agent—Partnership.*

587. THE word *bailment* is from *bail*, which is derived from the Greek, to deliver, and is so called, because by means of it, the party restrained is delivered into the hands of those that bind themselves for his forthcoming. Bailment, in law, is a delivery of goods in trust, upon agreement that the trust shall be executed, and the goods restored by the bailee, when the purpose of the bailment shall have been answered.

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in New York required to be in writing? 586. What special provision is made to prevent fraudulent transfers of property?

588. If a person receives goods to be kept for the bailor, and to be returned on demand, without recompense, he is to keep them with reasonable care; and unless there be a special undertaking to the contrary, he is responsible only for gross neglect, or for a violation of good faith. Gross neglect is a want of that care which every man of common sense takes of his own property. If a person undertakes, without recompense, to do some act for another in respect to the thing bailed; for instance: if he undertakes to carry an article from one place to another, he is responsible only for gross neglect, or a breach of faith.

589. Whether a mandatary renders himself liable for the non-performance of a gratuitous undertaking, is a question on which writers on common law differ in some degree. But perhaps the prevailing opinion among us is, that a mandatary, or one who undertakes to do an act for another without reward, is not answerable for omitting to do the act, but is responsible only when he attempts to do it, and does it amiss. In other words, he is responsible for misfeasance, but not for nonfeasance, even though special damages be averred.

590. If a person loan to another for use without reward, any article, as a horse, carriage, or book, and the article be lost or destroyed, without blame or neglect imputable to the borrower, the owner must abide the loss. But the borrower must apply the thing to the use for which it was borrowed; and he must not keep it beyond the time limited, nor permit another person to use it.

591. If property be pledged as security for a debt or engagement, the pawnee is bound to take ordinary care, and is answerable only for ordinary neglect; and if the goods should then happen to be lost, he may, notwithstanding, resort to the pawnor for his debt. If he derives any profit from the use of the property, he must

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587. What is the meaning of *bailment*? 588. In what cases, and how far, is a bailee liable for damage? 589. In what cases does a mandatary become liable for damages? 590. How does a borrower become liable? 591. What is the law in relation to prop-

apply the profits, after deducting necessary expenses, towards the debt.

592. There is another species of bailment, the hiring of property for a reward. The hirer is bound to use the article with due care and moderation, and not to apply it to any other use, or detain it for a longer period than that for which it was hired. If the article be injured or destroyed without any fault on the part of the hirer, the loss falls on the owner, for the risk is with him.

593. In cases where work or care is bestowed on the thing delivered, for a recompense, the workman for hire must answer for ordinary neglect of the goods bailed, and apply a degree of skill equal to the undertaking; for every man is presumed to possess the skill requisite to the due exercise of the art or trade he assumes. If he performs the work unskilfully, he is responsible in damages. As, if a tailor receives cloth to be made into a coat, he is bound to perform it in a workmanlike manner.

594. Forwarding merchants are responsible for want of good faith, and of reasonable care and ordinary diligence, and not to any greater extent, unless the business and duty of carriers be attached to their other character.

595. But with regard to innkeepers, the rule is more strict. In general, they are responsible for the acts of their servants, and for thefts, and are bound to take all possible care of the goods and baggage of their guests, on the ground of the profit they receive for their entertainment. But the innkeeper is not considered responsible for loss occasioned by unavoidable accident, or by superior force, as robbery.

596. A person who carries goods for hire, in a particular case, and not as a common carrier, is only answerable for ordinary neglect, unless he expressly assumes the risk of a common carrier. But if he be a common carrier, he is in the nature of an insurer, and is answer-

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erty pledged or pawned? 592. What in relation to property hired for a reward? 593. What in relation to articles on which labor is to be bestowed? 594. What in relation to forwarding merchants? 595. What as to innkeepers? 596. As to common

able for accidents and thefts, and even for loss by robbery. He is answerable for all losses except in cases of the act of God, and public enemies.

597. Proprietors of a stage coach do not warrant the safety of passengers as common carriers; they are responsible only for the want of due care. But as public carriers, they are answerable for the loss of a box or parcel of goods, though ignorant of the contents. But if the owner be guilty of fraud or imposition, as by concealing the value or nature of the article, or deludes a carrier by treating the parcel as of no value, he cannot hold him liable for the loss of his goods. Carriers by water are liable to the same extent as land carriers. But the rule does not apply to post masters.

598. Agency is founded upon a contract, express or implied, by which one party entrusts to the other the management of some business; and by which the other assumes to do the business, and to render an account of it. The acts of a general agent, or one employed by another to do his business of a particular kind, will bind his principal, so long as he keeps within the general scope of his authority, though he may act contrary to his private instructions. But an agent, constituted for a particular purpose, and under a limited power, cannot bind his principal if he exceeds his power. The special authority must be strictly pursued; and whosoever deals with an agent constituted for a special purpose, deals at his peril, when the agent passes the limits of his power.

599. If a person intrusts his watch to a watch maker to be repaired, and the watch maker sells the watch, the owner is not bound by the sale. A factor or merchant who buys and sells upon commission, or as agent for others, may sell on credit, and the principal must abide by the bargain, and the agent incurs no risk. There are some cases in which a factor sells on credit on his own risk; as when he acts for an additional premium; and the principal may call on him without first looking to the

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carriers? 597. Proprietors of stages? 598. How far is a principal bound by the acts of his agent? 599. How is the agency of fac-



vendee. A factor cannot pledge the goods of his principal as security for his own debt.

600. If an agent would excuse himself from responsibility, he must show that he disclosed his principal when he made the contract, and that he acted on his behalf, so as to enable the party with whom he deals, to have recourse to the principal, in case the agent had authority to bind him. And if the agent even buys in his own name, but for the principal, and without disclosing his name, the principal is bound, as well as the agent, provided the goods come to his use. An agent, ordinarily, has no right, without express authority, to employ a sub-agent to do his business, without the knowledge or consent of his principal.

601. An agent has a right to retain possession of property until his demand shall be satisfied. This right is called a *lien*. A *general* lien is the right to retain property for a general balance of accounts; but a *particular* lien is a right to retain it only for a charge on account of labor employed, or expenses bestowed, upon the identical property detained. This is a privilege given by law to persons engaged in occupations necessary for the accommodation of the public. Upon this ground common carriers and innkeepers have a lien on property intrusted to them. A tailor has a lien upon the cloth put in his hands to be worked up into a garment. But he cannot hold it for any debt previously contracted.

602. *Partnership* is a contract of two or more persons, to place their money, labor or skill, in lawful commerce or business, and to divide the profit, and bear the loss, in certain proportions. It is a partnership if one advances the funds, and another furnishes the personal services, and is to share in the profits. Though there be no express articles of copartnership, if persons have a mutual interest in the profits and loss, or if they hold out themselves to the world as joint traders, they are held respon-

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tors regulated? 600. What is necessary to excuse an agent from responsibility? 601. What is a lien? Who have this privilege? 602. What is the nature of a partnership? 603. How may sever-

sible as partners to third persons, whatever may be the nature of their connexion; and each member of the firm is answerable for the whole amount of the debts. But a party may by agreement receive, by way of rent, a portion of the profits of a farm or tavern; or a clerk or agent may receive a portion of the profits of sales as a compensation for labor, without becoming a partner.

603. Parties must be jointly concerned in the future sale of their goods, in order to constitute a partnership. A joint purchase, with a view to separate and distinct sales by each person on his own account, is not sufficient. Several persons, not having contracted together as partners, may, by a common agent employed for the purpose, purchase goods in the name of one of them only, and divide the purchase among themselves, without becoming partners, or jointly answerable to the seller in that character, if they are not to be jointly concerned in the resale of their shares. If a purchase be made on separate account, and the interests of the purchasers be afterwards mingled, with a view to a joint sale, the partnership commences at the time when the shares are brought into a common stock.

604. The members of an association may mutually agree that any one of their number shall neither contribute his money or labor, nor partake of the profits; yet if he lends his name to the company, he becomes liable as a partner for the debts contracted. The parties may regulate their concerns as they please with regard to each other; but they cannot, by any agreement among themselves, release each other from their obligations as partners. This rule is founded on principles of general policy, and is calculated to prevent the frauds to which creditors would otherwise be exposed. A partner who should conceal his name so as not to be known as a partner when the debt is contracted, is equally liable when discovered, if he shares in the profits of the trade.

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all persons purchase and divide goods, without becoming jointly responsible? What future act is necessary to make them partners? 604. Can the members of an association, by any arrange-

605. By the laws of New York, a limited partnership may consist of one or more persons jointly and severally responsible, who are called *general* partners, and one or more persons who furnish certain funds to the common stock, but whose liability extends only to the amount of the fund furnished, and who are called *special* partners. The names of the special partners are not to be used, nor do they transact any business for the firm. Before such a partnership can act, a register thereof, with a certificate signed by the parties, must be registered in the clerk's office of the county; and the terms of the partnership must be published for six weeks. Due publication must also be made for four weeks, of the dissolution of the partnership by the act of the parties, prior to the time specified in the certificate.

606. Incorporated companies are not, in law, partnerships; and the stockholders are not personally responsible for the debts or engagements of the company: their property is affected only so far as they have an interest in the company.

607. The act of each partner relating to the partnership, is considered the act of all, and binds all. But if a bill or note be drawn by one partner in his own name only, without appearing to be on partnership account, he alone is bound, though it was made for a partnership purpose. But if the bill be drawn by one partner in his own name, on the firm, or on partnership account, the act of drawing has been held to amount to an acceptance of the bill by the drawer in behalf of the firm, and to bind the firm as an accepted bill.

608. A partnership ceases as soon as the business is completed; and if the partnership be without a definite period, any partner may withdraw when he pleases, and dissolve the partnership; but if the terms of partnership

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ment among themselves, release each other from responsibility?  
605. What laws exist in relation to general and special partners?  
606. How far are stockholders of incorporated companies responsible?  
607. Is one partner bound by the acts of others?  
608. How are partnerships dissolved?

be definite, it cannot be dissolved before the expiration of the term, without the mutual consent of the partners; except by the death, insanity, bankruptcy or some other inability of one of the parties; or by judicial decree of the court of chancery in certain cases.

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## CHAPTER VII.

### *Bills of Exchange—Promissory Notes—Banks—Insurance Companies.*

609. A *bill of exchange* is a written order or request, from one person to another, to pay to a third person a certain sum of money. If A, living in New York, wishes to receive \$1000, which await his orders in the hands of B, in London, he applies to C, going from New York to London, to pay him \$1000, and take his draft on B for that sum, payable at sight. This is an accommodation to all parties. A receives his debt by transferring it to C, who carries his money across the Atlantic, in the shape of a bill of exchange, without danger of robbery or loss; and on his arrival at London, he presents the bill to B, and is paid. A, who draws the bill, is the *drawer*; B, to whom it is addressed, is the *drawee*; and, on accepting it, he becomes the *acceptor*. C, to whom the bill is made payable, is called the *payee*. As the bill is payable to C, *or his order*, he may, by endorsement, direct the bill to be paid to D. In that case C becomes the *endorser*, and D, to whom the bill is endorsed, is called the *endorsee*, or *holder*.

610 A *check* is, in form and effect, a bill of exchange. It is not a direct promise on the part of the drawer to pay, but he is answerable if the drawee fails to pay. A

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609. What is a bill of Exchange? Give an example to illustrate its operation? What are the several parties called? 610. What is a check? 611. How soon after it is drawn, must a bill be pre-

check payable *to bearer* passes by delivery, and the bearer may sue on it as on an inland bill of exchange.

611. No precise time is fixed by law for presenting bills to the drawee for acceptance. A bill payable at a given time after date, may be presented at any time before the day of payment; but if presented and acceptance be refused, it is dishonored, and notice must then be given to the drawer. A bill payable sixty days after sight, means sixty days after acceptance; and such a bill, as well as a bill payable on demand, must be presented in a reasonable time, or the holder must bear the loss proceeding from his neglect.

612. The acceptor of a bill is the principal debtor, and the drawer is the surety; and nothing will discharge the acceptor but payment or a release. If the acceptor alters the bill on accepting it, and the holder consents to the alteration; it is a good bill as between the holder and acceptor, but it is vacated as against the drawer and endorsers.

613. A *promissory note* is a written promise to pay or deliver to another a sum of money. If it be made payable to him or his order, or to bearer, it is called *negotiable*; and it may be sold or transferred to any other person, who has the same authority to sue for and collect the money, as the original promisee. When a note is payable *to bearer*, it passes without endorsement; but when it is payable to a person *or his order*, such person, the promisee, must endorse it by writing his name on the back of it, before any other person can receive the money. If the name of the payee or endorsee be left blank, any *bona fide* holder may insert his own name as payee. The words *value received* are usually inserted in a note, but the note is good without them.

614. If a bill has been accepted, demand of payment must be made when the bill falls due; and it must be made by the holder or his agent upon the acceptor, at the

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sent? 612. What is the effect of altering a bill by the acceptor? 613. What is a promissory note? What is the difference between notes payable to bearer and to order? 614. When must payment

place appointed for payment, or at his residence, or upon him personally, if no particular place be appointed. The acceptor is allowed three days after the bill falls due, to pay; which are called *days of grace*. Three days of grace apply also to promissory notes. A bill or note payable on demand, or in which no time of payment is expressed, is not entitled to the days of grace.

615. If the third day of grace falls on Sunday, or some other day of public rest, the demand of payment must be made on the day preceding. If the demand be not made on the last day of grace, the drawer of a bill, and endorser of a note, are discharged. As to the particular time of the day at which the demand must be made, it is said to be unseasonable to demand payment before the expiration of the day; but this question is governed, in a degree, by the custom of the place; and if, in a commercial city, payments are to be made at the banks, demand must be made within bank hours.

616. The holder of a note can recover upon it, though he received it of a person that had stolen or robbed it from the true owner; provided he took it innocently, in the course of trade, for a valuable consideration, and with due caution. There are said to be but two cases in which a bill or note is void in the hands of an innocent endorsee or holder: one is when the note is given for money lost at gaming; and the other when it is given for a usurious debt. *Usury* is an agreement, upon the loan of money, to receive the same again with a greater interest than that which is fixed by law.

617. The acceptance of a bill may be in writing, or by parol. *Parol* means, assurance given by word. If a person, in writing, authorizes another to draw a bill, and stipulates, before the drawing of the bill, to honor it after it shall have been drawn; and if the bill be afterwards drawn, and taken by a third party, it amounts to an acceptance. A parol promise to accept a bill already

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be demanded on accepted bills? 615. When must the demand be made when the last day of grace falls on Sunday? 616. In what cases are notes void? 617. In what manner must the acceptance

drawn, or thereafter to be drawn, is binding if the bill be purchased in consideration of the promise. In New York, however, it is specially provided, that no acceptance is binding, unless it be in writing.

618. If a note be made payable in any species of property other than cash, it is not negotiable. If such note be not paid according to the conditions therein expressed, the maker becomes liable to pay the same in cash. But in either case, if it passes to a third person, he can sue it only in the name of the person to whom it was executed, who is allowed to offset any account or claim which he may have against the promisee. And any note, if it be taken after it is become due, the buyer takes at his peril; and the promisor may offset against it any payment which he may have made to the original holder.

619. That the drawer and endorsers of a negotiated note or bill may be held responsible, the holder must show that a demand has been made, or that due diligence has been used to get the money of the maker of the note, or the drawee of a bill; and he must also give reasonable notice of their default to the drawer and endorsers. The object of this notice is to afford an opportunity to the drawer and endorsers, to obtain security from those to whom they must resort for indemnity. The notice must be given by the first convenient, practicable mail that goes on the day next to the third day of grace; or, it must at least be put into the post office for that purpose, if possible. Where the parties live in the same town, personal notice must be given, or a special messenger must be sent to the dwelling house or place of business of the party to be charged.

620. Agents are appointed in all commercial places, called *notaries public*. When a foreign bill is to be presented for acceptance or payment, the demand is usually made by a notary; and in case of refusal, his certificate of the presentment of the bill, and of the refusal, is legal proof of the fact in any court. This certificate is called a

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of bills be signified? 618. What is the character of notes not payable in cash? 619. What is requisite to hold drawers and endorsers of negotiated paper responsible? 620, 621. What are the

*protest*, which means, *for proof*. A protest must be noted on the day of the demand; but it may be drawn up in form at a future period. A bill drawn in one state, upon a person in another, seems to be regarded as a foreign bill requiring a protest.

621. But notaries may also demand acceptance and payment of inland bills of exchange, and promissory notes, and protest the same for non-acceptance or non-payment. No protest, however, is legal evidence in court, except in the case of a foreign bill of exchange. Yet it is expedient, in many cases, to employ notaries, when evidence is to be preserved, because they are easily to be found when wanted as witnesses. And in the state of New York, the original protest of such notary, under seal, is evidence, in case of his death, insanity, or absence, so that his personal testimony cannot be obtained. Notaries in this state are appointed by the governor and senate wherever they shall think proper.

622. *Banks*. The first institution of this kind was in Italy, where the Lombard Jews kept benches in the market places, for the exchange of money and bills; and *ban-co* being the Italian name for bench, banks took their title from this word.

623. The first banks are supposed to have been only *banks of deposit*, places where persons *deposited* or laid up their money for safe keeping, to be ready when called for. Another species of bank is a *bank of deposit and discount*. By *discounting* is meant the advancing of money on bills of exchange, or on promissory notes due at a future time, taking out of the sum the interest thereon to the time when the note will become due.

624. But banks in this country, differ materially at present from either of those above mentioned. They receive money in deposit, and they discount notes; but instead of paying gold or silver coin for such notes, they pay in their own notes, on which they are bound to pay the specie whenever demanded. These bank bills or notes

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duties of a notary public? What is a protest? 622. Where were banks first instituted? 623. What is a bank of deposit? What is discounting? 624. What are banks in this country called? How



circulate as money: hence our banks are called, *banks of deposit, discount and circulation*. A bank derives its powers and privileges from acts of incorporation by the legislature. It is a corporation composed of a number of individuals, who petition to the legislature to be incorporated. The act grants and defines the powers of the corporation, and expresses the amount of capital which is to constitute the fund on which the bank is to do business. This capital is divided into shares, (usually of \$100 each,) and sold; by which means the capital fund is raised. The owners of these shares are called *stockholders*, who choose from among themselves a certain number of directors, (ordinarily thirteen,) who, from their own number, choose a president. The president and directors choose a cashier and clerks.

625. Banks are allowed to issue bills to a greater amount than their capital stock. In the state of New York, banks may issue bills and discount notes to two and a half times the amount of their capital; which renders banking a profitable business, as the stockholders draw interest on a sum much greater than they have invested. Every six months the profits are divided among the stockholders. The sums thus divided are called *dividends*. If a bank cannot redeem all the bills it has issued, it is said to have failed, or to be broken.

626. In the state of New York, a fund is provided to indemnify the holders of bank bills against losses by the failure of banks. This fund is raised under an act passed in 1839, imposing a yearly tax of one half of one per cent. on the capital stock of the several banks, until such tax shall amount to three per cent; and whenever this fund shall become exhausted, taxation shall be again resorted to to replenish it. In some states the property, personal and real, of the stockholders, is pledged for the redemption of the notes of the banks.

627. *Insurance companies* are corporations created for

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are they incorporated? How is the stock raised? 625. To what amount may banks issue bills and discount notes? What are dividends? 626. How are bill holders in New York secured against losses from bank failures? 627. What are insurance companies?

the purpose of insuring persons against losses by fire, or at sea, and sometimes on the risk of the duration of persons' *lives*; and they sometimes have the same powers and privileges as banks have, in regard to the issuing of bills. If a person wishes to be insured against fire, he applies to an agent of the company, who takes a survey of the building and property to be insured. The rate of insurance is then agreed on, which is a certain sum, say 50, 75 or 100 cents for every \$100 insured. The money paid for insurance is called *premium*; and the writing given by the agent, in behalf of the company, to the person insured, expressing the terms of insurance, is called a *policy*.

628. Companies for the insurance of lives, are less common. Their purpose is to provide a fund for creditors, or family connexions, in case of death. The insurer, either for a sum in gross, or in yearly payments, agrees to pay a certain sum, or an annuity, upon the death of the person whose life is insured. Such contracts are well calculated to secure relief to the members of a family whose only dependence rests upon the life of a single person.

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## CHAPTER VIII.

### *Of Crimes and their Punishment.*

629. CRIMES made punishable with death by the laws of the state of New York, are, treason against the people of the state; murder; and arson in the first degree.

*Treason* is defined to be levying war against the people of the state; a combination to usurp, by force, the government of the state; or adhering to, and aiding, the enemies of the state, while separately engaged in war with a foreign enemy.

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How are insurances effected on property? 628. What is the nature of a life insurance?

629. What crimes are punishable with death in New York? What is treason? 630. What is murder? 631. What is arson in

630. *Murder* is the killing of any person in the following cases: (1.) when perpetrated from a premeditated design to effect the death of any human being; (2.) when perpetrated by any act imminently dangerous to others, and evincing a depraved mind regardless of human life, although without a premeditated design to effect death; (3.) when perpetrated without any design to effect death, by a person engaged in the commission of a felony; and (4.) the wounding of a person in a duel, though it be done out of the state, who shall die in the state; and every second engaged in such duel shall be guilty of murder.

631. *Arson* in the first degree, is wilfully setting fire to, or burning, in the night time, a dwelling house in which there is, at the time, some human being; and every house, prison, jail or other building, that shall have been usually occupied by persons lodging therein at night, is deemed a dwelling house of any person so lodging therein.

632. *Manslaughter* in the first degree, consists in killing a human being, without a design to effect death, by the act of another engaged in perpetrating, or attempting to perpetrate a crime or misdemeanor not amounting to felony; or in assisting another in committing self-murder. Manslaughter in the second degree, is the killing of a human being, without a design to effect death, but in a cruel, unusual manner; or in unnecessarily killing another, while resisting an attempt by such other person to do an unlawful act, or after the attempt shall have failed. Manslaughter in the third degree, is the killing of another in the heat of passion, without a design to effect death, by a dangerous weapon; or the involuntary killing of a person by the negligence of another engaged in committing, or attempting to commit, a trespass; or in permitting a mischievous animal, by its owner, to go at large, if the animal shall kill a human being, who shall have taken due precaution to avoid the animal; or the administering, by a physician in a state of intoxication, and without a design to effect death, of any poison, drug or me-

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the first degree? 632 What is manslaughter in the first degree? What in the second degree? Third degree? Fourth degree?

dicine, which shall produce the death of another; or in causing death by persons navigating steam-boats or other vessels, through culpable negligence or ignorance. Manslaughter in the fourth degree, is the involuntary killing of another by any weapon, or by means neither cruel nor unusual, in the heat of passion. Manslaughter in the first degree is punishable by imprisonment in the state prison, for a term not less than seven years; in the second degree, not less than four, nor more than seven years; in the third degree, not less than two, nor more than four years; in the fourth degree, two years, or in a county jail, not more than one year, or by fine not exceeding one thousand dollars, or both.

633. *Homicide* is the taking of a person's life, and includes the crime of murder. Homicide is also excusable, or justifiable. *Excusable homicide* is the killing of a person by accident, or while lawfully employed, without the intention of doing wrong. *Justifiable homicide* is putting one to death in pursuance of a legal sentence; or in defending one's person, or property, or in defending the person of another. In these cases, no punishment is inflicted.

634. Any person who shall *maim* another, from premeditated design, by cutting out or disabling the tongue, or any other member or limb of any person; or who shall inveigle or *kidnap* another, or shall be accessory to any kidnapping; or who shall sell kidnapped blacks; or who shall decoy and take away children; or who shall expose children in the street or highway to abandon them; or who shall commit or attempt an assault with intent to kill, or to commit any other felony, or in resisting the execution of a legal process; or who shall administer poison whereof death shall not ensue; or who shall poison any spring, well or reservoir of water; such person shall be liable to be imprisoned in the state prison for a term not exceeding ten years; or to be imprisoned in the county jail and fined.

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How is manslaughter punishable? 633. What is homicide? When is it excusable and justifiable? 634. What other offences against the person are here mentioned? How punished? 635. What is

635. *Arson* in the second degree, is the burning of, and setting fire to, an inhabited dwelling house in the day time; or setting fire to, in the night time, any shop, warehouse, or other building, endangering an inhabited dwelling. Arson in the third and fourth degrees consists in the burning of buildings other than dwellings, and other property of various kinds. Arson in these several degrees, is punishable by imprisonment, for terms varying from two to ten years.

636. *Burglary*, in the first degree, is the breaking into and entering, a dwelling, in the night time, with intent to commit some felony. The same act, when perpetrated in the day time, or under such circumstances as shall not constitute burglary in the first degree, is burglary in the second or third degree. The crime of burglary, in the several degrees, is punishable by imprisonment in the state prison for terms, the first degree, not less than ten years, the second, not more than ten, nor less than five years, and the third, not more than five years.

637. *Forgery* consists in falsely making, counterfeit-ing, or altering any instrument of writing with intent to defraud or wrong any person. There are various degrees of forgery; and they are punishable in the same manner, and to the same extent, as burglary. *Counterfeiting* is a term used to signify the forging of false coins, or false bank bills, or the fraudulent altering of true ones. This crime consists, not only in the actual making or passing of such false coins or bills, but also in having in possession any engraved plate, or bills unsigned, which are intended to be used for such purposes.

638. *Robbery* is the taking of property from one's person by violence, or threats of violence, and by putting the person in fear of his life, or of grievous injury. Robbery in the first degree, is punishable by imprisonment not less than ten years; the second degree, not more than ten years.

Arson in the second, third and fourth degrees? How punished?  
 636. What is burglary in the several degrees? How punished?  
 637. What is forgery? Counterfeiting? How punished? 638.  
 What is robbery? How punished? 639. What is larceny? How

639. *Larceny* is the term used to signify *theft* of all sorts. If the amount of property taken exceed twenty-five dollars, the crime is called *grand larceny*; if the amount be twenty-five dollars or under, it is adjudged to be *petit larceny*. The former is punishable by imprisonment in a state prison for a term not exceeding five years; the latter, by imprisonment in a county jail, not longer than six months, or by fine not exceeding one hundred dollars, or both.

640. *Embezzling* is the converting, by any person, to his own use, of property entrusted to him by another, and is punishable in the same manner as the stealing of property of like value.

641. *Perjury* is wilfully swearing or affirming falsely to any material matter, upon any oath, legally administered. If committed on the trial of any indictment for a capital offence, or for any other felony, it is punishable by imprisonment not less than ten years; committed on any other judicial trial or inquiry, not exceeding ten years. *Subornation of perjury* is the procuring of another to swear falsely, and is punishable in the same manner, and to the same extent, as perjury.

642. *Bribery* is the offering to any person in the administration of justice, any reward, to influence his vote, opinion or judgment on any question; and is punishable by imprisonment in a state prison for a term not exceeding ten years, or fine not exceeding five hundred dollars, or both. Any person accepting such bribe, shall be punished in like manner, and shall forfeit his office, and be forever disqualified from holding any public trust or appointment.

643. *Duelling* is the fighting with a deadly weapon, in single combat with another. Any person killing another in a duel, is subject to the punishment of death. If death does not ensue, the offence is punishable by imprisonment in a state prison for a term not exceeding ten years. Challenging, or accepting a challenge, to fight,

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punishable? 640. What is embezzling? 641. What is perjury? What is subornation of perjury? How punishable? 642. What is bribery? How punishable? 643. What is dueling? How pun-

or to be present as a second, is punishable by imprisonment not exceeding seven years.

644. *Offences punishable by Imprisonment in a County Jail, and by Fines.* Among these are the following: Petit larceny; attempting to extort, by threats, any property or pecuniary benefit; fraudulent conveying or concealing property to defraud creditors; conspiracies by two or more persons with intent to commit an offence; imprisoning or arresting another without legal authority, or under a false pretence; receiving a reward to conceal a misdemeanor; voting at an election more than once; maliciously killing or wounding animals that belong to another, or cruelly beating animals, whether his own or those of another; wilfully opening or reading sealed letters addressed to another, except in cases punishable by the laws of the United States; removing or defacing any monument, mile stone or guide board. These, besides many other offences not here enumerated, are punishable by fine or imprisonment in the county jail, or both. And any person having been convicted of petit larceny, or an attempt to commit an offence, which, if perpetrated, would be punishable by imprisonment in a state prison, shall, for a second offence, be imprisoned in such prison.

645. *Arrest and Examination of Offenders.* Any judge, or justice of any court in the state, has power to issue process for the apprehension of persons charged with an offence. When a complaint is made to such magistrate, he examines the complainant on oath, and any witnesses that may be produced; and if it appears that an offence has been committed, he issues a warrant, reciting the accusation, and commanding the officer to whom it is directed, to bring the accused before such magistrate. The magistrate first examines the complainant and witness in support of the prosecution: he next examines the prisoner, who is not on oath, and then his witnesses. The evidence is reduced to writing by the magistrate, and signed by the

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ishable? 644. What offences are punishable by imprisonment in a county jail and by fines? 645. What judicial officers may issue processes for apprehending criminals? How are the arrest, examination and trial, of offenders conducted?

witnesses. If it shall appear that an offence has been committed, the magistrate binds by recognizance the prosecutor and all material witnesses, to appear and testify against the prisoner at the next court having cognizance of the offence, and at which the prisoner may be indicted. If the offence be one which may be tried by a court of special sessions, of three justices of the peace, he may be forthwith tried by such court, if he choose to be so tried; but if not, and if the offence be bailable, the magistrate may take bail for the prisoner's appearance at the next court having cognizance of the offence. If no bail be offered, or the offence be not bailable, the prisoner is committed to jail. But in all cases to be tried at such court, the prisoner shall first be indicted by a grand jury.



# APPENDIX.

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## DECLARATION OF INDEPENDENCE.

IN CONGRESS, JULY 4, 1776.

THE UNANIMOUS DECLARATION OF THE THIRTEEN  
UNITED STATES OF AMERICA.

WHEN, in the course of human events, it becomes necessary for one people to dissolve the political bands which have connected them with another, and to assume, among the powers of the earth, the separate and equal station to which the laws of nature and of nature's God entitle them, a decent respect to the opinions of mankind requires that they should declare the causes which impel them to the separation.

We hold these truths to be self-evident: that all men are created equal, that they are endowed by their Creator with certain unalienable rights; that among these are life, liberty, and the pursuit of happiness. That to secure these rights, governments are instituted among men, deriving their just powers from the consent of the governed; that whenever any form of government becomes destructive of these ends, it is the right of the people to alter or to abolish it, and to institute a new government, laying its foundation on such principles, and organizing its powers in such form, as to them shall seem most likely to effect their safety and happiness. Prudence, indeed, will dictate, that governments long established should not be changed for light and transient causes; and accordingly all experience hath shown, that mankind are more disposed to suffer while evils are sufferable, than to right themselves by abolishing the forms to which they are accustomed. But when a long train of abuses and usurpa-

tions, pursuing invariably the same object, evinces a design to reduce them under absolute despotism, it is their right, it is their duty, to throw off such government, and to provide new guards for their future security. Such has been the patient sufferance of these colonies; and such is now the necessity which constrains them to alter their former systems of government. The history of the present king of Great Britain is a history of repeated injuries and usurpations, all having in direct object the establishment of an absolute tyranny over these states. To prove this, let facts be submitted to a candid world.

He has refused his assent to laws the most wholesome and necessary for the public good.

He has forbidden his governors to pass laws of immediate and pressing importance, unless suspended in their operation, till his assent should be obtained; and when so suspended, he has utterly neglected to attend to them. He has refused to pass other laws for the accommodation of large districts of people, unless those people would relinquish the right of representation in the legislature—a right inestimable to them, and formidable to tyrants only.

He has called together legislative bodies at places unusual, uncomfortable, and distant from the depository of their public records, for the sole purpose of fatiguing them into compliance with his measures.

He has dissolved representative houses repeatedly, for opposing, with manly firmness, his invasions on the rights of the people.

He has refused, for a long time after such dissolutions, to cause others to be elected; whereby the legislative powers incapable of annihilation, have returned to the people at large, for their exercise, the state remaining, in the mean time exposed to all the dangers of invasion from without, and convulsions within.

He has endeavored to prevent the population of these states; for that purpose obstructing the laws for naturalization of foreigners; refusing to pass others to encourage their migration hither, and raising the condition of new appropriations of lands.

He has obstructed the administration of justice, by refusing his assent to laws for establishing judiciary powers.

He has made judges dependent on his will alone, for the tenure of their offices, and the amount and payment of their salaries.

He has erected a multitude of new offices, and sent hither swarms of officers, to harass our people, and eat out their substance.

He has kept among us, in times of peace, standing armies, without the consent of our legislatures.

He has affected to render the military independent of, and superior to, the civil power.

He has combined with others to subject us to a jurisdiction foreign to our constitution, and unacknowledged by our laws, giving his assent to their acts of pretended legislation:

For quartering large bodies of armed troops among us :

For protecting them, by a mock trial, from punishment for any murders which they should commit on the inhabitants of these states :

For cutting off our trade with all parts of the world :

For imposing taxes on us without our consent :

For depriving us, in many cases, of the benefits of trial by jury :

For transporting us beyond seas to be tried for pretended offences :

For abolishing the free system of English laws in a neighboring province, establishing therein an arbitrary government, and enlarging its boundaries, so as to render it at once an example and fit instrument for introducing the same absolute rule into these colonies :

For taking away our charters, abolishing our most valuable laws, and altering, fundamentally, the forms of our governments :

For suspending our own legislatures, and declaring themselves invested with power to legislate for us in all cases whatsoever.

He has abdicated government here, by declaring us out of his protection, and waging war against us.

He has plundered our seas, ravaged our coasts, burnt our towns, and destroyed the lives of our people.

He is at this time transporting large armies of foreign mercenaries to complete the works of death, desolation and tyranny, already begun with circumstances of cruelty and perfidy, scarcely paralleled in the most barbarous ages, and totally unworthy the head of a civilized nation.

He has constrained our fellow-citizens, taken captive on the high seas, to bear arms against their country, to become the executioners of their friends and brethren, or to fall themselves by their hands.

He has excited domestic insurrections among us, and has endeavored to bring on the inhabitants of our frontiers the merciless Indian savages, whose known rule of warfare is an undistinguished destruction of all ages, sexes and conditions.

In every stage of these oppressions we have petitioned for redress in the most humble terms: our repeated petitions have been answered only by repeated injury. A prince, whose character is thus marked by every act which may define a tyrant, is unfit to be the ruler of a free people.

Nor have we been wanting in attentions to our British brethren. We have warned them, from time to time, of attempts by their legislature to extend an unwarrantable jurisdiction over us. We have reminded them of the circumstances of our emigration and settlement here. We have appealed to their native justice and magnanimity, and we have conjured them by the ties of our common kindred to disavow these usurpations, which would inevitably interrupt our connexions and correspondence. They, too, have been deaf to the voice of justice and consanguinity. We must, therefore, acquiesce in the necessity which denounces our separation, and hold them, as we hold the rest of mankind—enemies in war, in peace friends.

We, therefore, the representatives of the United States of America, in general congress assembled, appealing to the Supreme Judge of the world, for the rectitude of our intentions, do, in the name, and by the authority, of the good people of these colonies, solemnly publish and declare,

that these united colonies are, and of right ought to be, free and independent states; that they are absolved from all allegiance to the British crown, and that all political connexion between them and the state of Great Britain is, and ought to be, totally dissolved; and that, as free and independent states, they have full power to levy war, conclude peace, contract alliances, establish commerce, and do all other acts and things which independent states may of right do. And for the support of the declaration, with a firm reliance on the protection of Divine Providence, we mutually pledge to each other our lives, our fortunes, and our sacred honor.

JOHN HANCOCK,

*President of Congress, and  
Delegate from Massachusetts.*

*New Hampshire.* Josiah Bartlett, William Whipple, Matthew Thornton.

*Massachusetts Bay.* Samuel Adams, John Adams, Robert Treat Paine, Elbridge Gerry.

*Rhode Island, &c.* Stephen Hopkins, William Ellery.

*Connecticut.* Roger Sherman, Samuel Huntington, William Williams, Oliver Wolcott.

*New York.* William Floyd, Philip Livingston, Francis Lewis, Lewis Morris.

*New Jersey.* Richard Stockton, John Witherspoon, Francis Hopkinson, John Hart, Abraham Clark.

*Pennsylvania.* Robert Morris, Benjamin Rush, Benjamin Franklin, John Morton, George Clymer, James Smith, George Taylor, James Wilson, George Ross.

*Delaware.* Cæsar Rodney, George Read, Thomas M'Kean.

*Maryland.* Samuel Chase, William Paca, Thomas Stone, Charles Carroll, of Carrollton.

*Virginia.* George Wythe, Richard Henry Lee, Thomas Jefferson, Benjamin Harrison, Thomas Nelson, Jr. Francis Lightfoot Lee, Carter Braxton.

*North Carolina.* William Hooper, Joseph Hewes, John Penn.

*South Carolina.* Edward Rutledge, Thomas Heyward, Jr. Arthur Middleton.

*Georgia.* Button Gwinnett, Lyman Hall, George Walton.

Attest, CHARLES THOMPSON, *Secretary.*

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## CONSTITUTION OF THE UNITED STATES.

The Constitution framed for the United States of America, by a convention of deputies from the states of New Hampshire, Massachusetts, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia, at a session begun May 25, and ended September 17, 1787.

WE, the people of the United States, in order to form a more perfect union, establish justice, ensure domestic tranquillity, provide for the common defence, promote the general welfare, and secure the blessings of liberty to ourselves and our posterity, do ordain and establish this Constitution for the United States of America.

### ARTICLE I.

SECTION 1. All legislative powers herein granted shall be vested in a congress of the United States, which shall consist of a senate and house of representatives.

SEC. 2. The house of representatives shall be composed of members chosen every second year, by the people of the several states; and the electors in each state shall have the qualifications requisite for electors of the most numerous branch of the state legislature.

No person shall be a representative who shall not have attained to the age of twenty-five years, and been seven years a citizen of the United States, and who shall not, when elected, be an inhabitant of the state in which he shall be chosen.

Representatives and direct taxes shall be apportioned among the several states which may be included within

the Union, according to their respective numbers, which shall be determined by adding to the whole number of free persons, including those bound to service for a term of years, and excluding Indians not taxed, three fifths of all other persons. The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand, but each state shall have at least one representative; and until such enumeration shall be made, the state of New Hampshire shall be entitled to choose *three*; Massachusetts *eight*; Rhode Island and Providence Plantations *one*; Connecticut *five*; New York *six*; New Jersey *four*; Pennsylvania *eight*; Delaware *one*; Maryland *six*; Virginia *ten*; North Carolina *five*; South Carolina *five*; Georgia *three*.

When vacancies happen in the representation from any state, the executive authority thereof shall issue writs of election to fill such vacancies.

The house of representatives shall choose their speaker and other officers, and shall have the sole power of impeachment.

SEC. 3. The senate of the United States shall be composed of two senators from each state, chosen by the legislature thereof, for six years; and each senator shall have one vote.

Immediately after they shall be assembled in consequence of the first election, they shall be divided, as equally as may be, into three classes. The seats of the senators of the first class shall be vacated at the expiration of the second year; of the second class at the expiration of the fourth year; and of the third class at the expiration of the sixth year; so that one third may be chosen every second year; and if vacancies happen, by resignation, or otherwise, during the recess of the legislature of any state, the executive thereof may make temporary appointments, until the next meeting of the legislature, which shall then fill such vacancies.

No person shall be a senator who shall not have attain-

ed to the age of thirty years, and been nine years a citizen of the United States, and who shall not, when elected, be an inhabitant of that state for which he shall be chosen.

The vice president of the United States shall be president of the senate, but shall have no vote, unless they be equally divided.

The senate shall choose their other officers, and also a president pro tempore, in the absence of the vice president, or when he shall exercise the office of president of the United States.

The senate shall have the sole power to try all impeachments: when sitting for that purpose, they shall be on oath or affirmation. When the president of the United States is tried, the chief justice shall preside; and no person shall be convicted without the concurrence of two thirds of the members present.

Judgment, in cases of impeachment, shall not extend further than to removal from office, and disqualification to hold and enjoy any office of honor, trust, or profit, under the United States; but the party convicted shall, nevertheless, be liable and subject to indictment, trial, judgment and punishment, according to law.

SEC. 4. The times, places and manner of holding elections for senators and representatives, shall be prescribed in each state by the legislature thereof; but the congress may at any time, by law, make or alter such regulations, except as to the places of choosing senators.

The congress shall assemble at least once in every year; and such meeting shall be on the first Monday in December, unless they shall, by law, appoint a different day.

SEC. 5. Each house shall be the judge of the elections, returns and qualifications of its own members; and a majority of each shall constitute a quorum to do business; but a smaller number may adjourn from day to day, and may be authorized to compel the attendance of absent members, in such manner, and under such penalties, as each house may provide.

Each house may determine the rules of its proceedings,



punish its members for disorderly behavior, and, with the concurrence of two thirds, expel a member.

Each house shall keep a journal of its proceedings, and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy; and the yeas and nays of the members of either house, on any question, shall, at the desire of one fifth of those present, be entered on the journal.

Neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting.

SEC. 6. The senators and representatives shall receive a compensation for their services, to be ascertained by law, and paid out of the treasury of the United States. They shall, in all cases, except treason, felony, and breach of the peace, be privileged from arrest during their attendance at the session of their respective houses, and in going to or returning from the same: and for any speech or debate in either house, they shall not be questioned in any other place.

No senator or representative shall, during the time for which he was elected, be appointed to any civil office under the authority of the United States, which shall have been created, or the emoluments whereof shall have been increased, during such time; and no person holding any office under the United States, shall be a member of either house during his continuance in office.

SEC. 7. All bills for raising revenue shall originate in the house of representatives; but the senate may propose, or concur with, amendments, as on other bills.

Every bill which shall have passed the house of representatives and the senate, shall, before it become a law, be presented to the president of the United States: if he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated, who shall enter the objections at large on their journal, and proceed to reconsider it. If, after such reconsideration, two thirds of the house shall agree to pass the bill, it shall be sent, together with the objections, to

the other house, by which it shall likewise be reconsidered, and, if approved by two-thirds of that house, it shall become a law. But, in all such cases, the votes of both houses shall be determined by yeas and nays, and the names of the persons voting for and against the bill shall be entered on the journal of each house respectively. If any bill shall not be returned by the president within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the congress, by their adjournment, prevent its return, in which case it shall not be a law.

Every order, resolution or vote, to which the concurrence of the senate and house of representatives may be necessary (except on a question of adjournment) shall be presented to the president of the United States, and before the same shall take effect, shall be approved by him, or, being disapproved by him, shall be passed by two thirds of the senate and house of representatives, according to the rules and limitations prescribed in the case of a bill.

SEC. 8. Congress shall have power—

To lay and collect taxes, duties, imposts and excises, to pay the debts and provide for the common defence and general welfare of the United States; but all duties, imposts and excises shall be uniform throughout the United States:

To borrow money on the credit of the United States:

To regulate commerce with foreign nations, and among the several states, and with the Indian tribes:

To establish a uniform rule of naturalization, and uniform laws on the subject of bankruptcies throughout the United States:

To coin money; to regulate the value thereof, and of foreign coin; and fix the standard of weights and measures:

To provide for the punishment of counterfeiting the securities and current coin of the United States:

To establish post offices and post roads:

To promote the progress of science and useful arts, by

securing, for limited times, to authors and inventors, the exclusive right to their respective writings and discoveries:

To constitute tribunals inferior to the supreme court:

To define and punish piracies and felonies committed on the high seas, and offences against the law of nations:

To declare war; grant letters of marque and reprisal; and make rules concerning captures on land and water:

To raise and support armies: but no appropriation of money to that use shall be for a longer term than two years:

To provide and maintain a navy:

To make rules for the government and regulation of the land and naval forces:

To provide for calling forth the militia to execute the laws of the Union, suppress insurrections, and repel invasions:

To provide for organizing, arming and disciplining the militia, and for governing such part of them as may be employed in the service of the United States; reserving to the states respectively, the appointment of the officers, and the authority of training the militia, according to the discipline prescribed by congress:

To exercise exclusive legislation in all cases whatsoever, over such district (not exceeding ten miles square) as may, by cession of particular states, and the acceptance of congress, become the seat of government of the United States, and to exercise like authority over all places purchased, by the consent of the legislature of the state in which the same shall be, for the erection of forts, magazines, arsenals, dock yards, and other needful buildings: And,

To make all laws which shall be necessary and proper for carrying into execution the foregoing powers, and all other powers vested by this constitution in the government of the United States, or in any department or officer thereof.

SEC. 9. The migration or importation of such persons as any of the states now existing shall think proper to

admit, shall not be prohibited by the congress prior to the year one thousand eight hundred and eight; but a tax or duty may be imposed on such importation, not exceeding ten dollars for each person.

The privilege of the writ of habeas corpus shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require it.

No bill of attainder or ex post facto law shall be passed.

No capitation or other direct tax shall be laid, unless in proportion to the census or enumeration herein before directed to be taken.

No tax or duty shall be laid on articles exported from any state. No preference shall be given, by any regulation of commerce or revenue, to the ports of one state over those of another; nor shall vessels bound to or from one state be obliged to enter, clear, or pay duties in another.

No money shall be drawn from the treasury, but in consequence of appropriations made by law: and a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

No title of nobility shall be granted by the United States; and no person holding any office of profit or trust under them shall, without the consent of the congress, accept of any present, emolument, office, or title of any kind whatever, from any king, prince, or foreign state.

SEC. 10. No state shall enter into any treaty, alliance or confederation; grant letters of marque and reprisal; coin money; emit bills of credit; make any thing but gold and silver coin a tender in payment of debts; pass any bill of attainder, ex post facto law, or law impairing the obligation of contracts; or grant any title of nobility.

No state shall, without the consent of the congress, lay any imposts, or duties on imports or exports, except what may be absolutely necessary for executing its inspection laws; and the nett produce of all duties and imposts laid by any state on imports or exports, shall be for the use

of the treasury of the United States; and all such laws shall be subject to the revision and control of the congress. No state shall, without the consent of congress, lay any duty of tonnage, keep troops or ships of war in time of peace, enter into any agreement or compact with another state, or with a foreign power, or engage in war, unless actually invaded, or in such imminent danger as will not admit of delay.

## ARTICLE II.

SECTION 1. The executive power shall be vested in a president of the United States of America. He shall hold his office during the term of four years, and, together with the vice president, chosen for the same term, be elected as follows:

Each state shall appoint, in such manner as the legislature thereof may direct, a number of electors, equal to the whole number of senators and representatives to which the state may be entitled in the congress; but no senator or representative, or person holding an office of trust or profit under the United States, shall be appointed an elector.

The electors shall meet in their respective states, and vote by ballot for two persons, of whom one at least shall not be an inhabitant of the same state with themselves. And they shall make a list of all the persons voted for, and of the number of votes for each, which list they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate. The president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted. The person having the greatest number of votes shall be the president, if such number be a majority of the whole number of electors appointed; and if there be more than one who have such majority, and have an equal number of votes, then the house of representatives shall immediately choose by ballot one of them for president; and if no person have a majority, then, from the five highest on the list, the said house shall, in like manner, choose the president. But, in choosing the president, the votes shall

be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. In every case, after the choice of the president, the person having the greatest number of votes of the electors, shall be the vice president. But if there should remain two or more who have equal votes, the senate shall choose from them, by ballot, the vice president.

[By the 12th article of amendment, the above clause has been repealed.]

The congress may determine the time of choosing the electors, and the day on which they shall give their votes, which day shall be the same throughout the United States.

No person, except a natural born citizen, or a citizen of the United States at the time of the adoption of this constitution, shall be eligible to the office of president: neither shall any person be eligible to that office who shall not have attained to the age of thirty five years, and been fourteen years a resident within the United States.

In case of the removal of the president from office, or of his death, resignation, or inability to discharge the powers and duties of the said office, the same shall devolve on the vice president, and the congress may, by law, provide for the case of removal, death, resignation, or inability, both of the president and vice president, declaring what officer shall then act as president; and such officer shall act accordingly, until the disability be removed, or a president shall be elected.

The president shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the period for which he shall have been elected; and he shall not receive, within that period, any other emolument from the United States, or any of them.

Before he enter on the execution of his office, he shall take the following oath or affirmation:

"I do solemnly swear (or affirm) that I will faithfully execute the office of president of the United States; and

will, to the best of my ability, preserve, protect, and defend the constitution of the United States."

SEC. 2. The president shall be commander-in-chief of the army and navy of the United States, and of the militia of the several states, when called into the actual service of the United States; he may require the opinion, in writing, of the principal officer in each of the executive departments, upon any subject relating to the duties of their respective offices; and he shall have power to grant reprieves and pardons for offences against the United States, except in cases of impeachment.

He shall have power, by and with the advice and consent of the senate, to make treaties, provided two thirds of the senators present concur: and he shall nominate, and by and with the advice and consent of the senate, shall appoint ambassadors, other public ministers and consuls, judges of the supreme court, and all other officers of the United States, whose appointments are not herein otherwise provided for, and which shall be established by law: but the congress may, by law, vest the appointment of such inferior officers as they think proper, in the president alone, in the courts of law, or in the heads of departments.

The president shall have power to fill up all vacancies that may happen during the recess of the senate, by granting commissions which shall expire at the end of their next session.

SEC. 3. He shall from time to time give to the congress information of the state of the union; and recommend to their consideration such measures as he shall judge necessary and expedient. He may, on extraordinary occasions, convene both houses, or either of them; and, in case of disagreement between them, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper. He shall receive ambassadors and other public ministers. He shall take care that the laws be faithfully executed; and shall commission all the officers of the United States.

SEC. 4. The president, vice president, and all civil officers of the United States, shall be removed from office

on impeachment tor, and conviction of, treason, bribery, or other high crimes and misdemeanors.

### ARTICLE III.

**SECTION 1.** The judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish. The judges both of the supreme and inferior courts, shall hold their offices during good behavior; and shall, at stated times, receive for their services a compensation, which shall not be diminished during their continuance in office.

**SEC. 2.** The judicial power shall extend to all cases in law and equity, arising under this constitution, the laws of the United States, and treaties made, or which shall be made, under their authority; to all cases affecting ambassadors, other public ministers, and consuls; to all cases of admiralty and maritime jurisdiction; to controversies to which the United States shall be a party, to controversies between two or more states, between a state and citizens of another state, between citizens of different states, between citizens of the same state claiming lands under grants of different states, and between a state, or the citizens thereof and foreign states, citizens or subjects.

In all cases affecting ambassadors, other public ministers and consuls, and those in which a state shall be a party, the supreme court shall have original jurisdiction. In all the other cases before mentioned, the supreme court shall have appellate jurisdiction, both as to law and fact, with such exceptions, and under such regulations, as the congress shall make.

The trial of all crimes, except in cases of impeachment, shall be by jury; and such trial shall be held in the state where the said crimes shall have been committed; but when not committed within any state, the trial shall be at such place or places as the congress may by law have directed.

**SEC. 3.** Treason against the United States shall consist only in levying war against them, or in adhering to their enemies, giving them aid and comfort. No person



shall be convicted of treason, unless on the testimony of two witnesses to the same overt act, or on confession in open court.

The congress shall have power to declare the punishment of treason; but no attainder of treason shall work corruption of blood, or forfeiture, except during the life of the person attainted.

#### ARTICLE IV.

SECTION 1. Full faith and credit shall be given, in each state, to the public acts, records, and judicial proceedings of every other state. And the congress may, by general laws, prescribe the manner in which such acts, records and proceedings shall be proved, and the effect thereof.

SEC. 2. The citizens of each state shall be entitled to all the privileges and immunities of citizens in the several states.

A person charged in any state with treason, felony, or other crime, who shall flee from justice, and be found in another state, shall, on demand of the executive authority of the state from which he fled, be delivered up, to be removed to the state having jurisdiction of the crime.

No person held to service or labor in one state, under the laws thereof, escaping into another, shall, in consequence of any law or regulation therein, be discharged from such service or labor; but shall be delivered up on claim of the party to whom such service or labor may be due.

SEC. 3. New states may be admitted by the congress into this union; but no new state shall be formed or erected within the jurisdiction of any other state, nor any state be formed by the junction of two or more states, or parts of states, without the consent of the legislatures of the states concerned, as well as of the congress.

The congress shall have power to dispose of, and make all needful rules and regulations respecting the territory or other property belonging to the United States; and nothing in this constitution shall be so construed as to prejudice any claims of the United States, or of any particular state.

SEC. 4. The United States shall guaranty to every state in this union, a republican form of government; and shall protect each of them against invasion, and on application of the legislature, or of the executive (when the legislature cannot be convened) against domestic violence.

## ARTICLE V.

The congress, whenever two thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or on the application of the legislatures of two thirds of the several states, shall call a convention for proposing amendments; which, in either case, shall be valid to all intents and purposes, as part of this constitution, when ratified by the legislatures of three fourths of the several states, or by conventions in three fourths thereof, as the one or the other mode of ratification may be proposed by the congress: Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall in any manner affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the senate.

## ARTICLE VI.

All debts contracted, and engagements entered into, before the adoption of this constitution, shall be as valid against the United States, under this constitution, as under the confederation.

This constitution, and the laws of the United States which shall be made in pursuance thereof, and all treaties made, or which shall be made, under the authority of the United States, shall be the supreme law of the land, and the judges in every state shall be bound thereby, any thing in the constitution or laws of any state to the contrary notwithstanding.

The senators and representatives before mentioned, and the members of the several state legislatures, and all executive and judicial officers, both of the United States and of the several states, shall be bound, by oath or affirmation, to support this constitution; but no religious test

shall ever be required as a qualification to any office or public trust under the United States.

## ARTICLE VII.

The ratification of the conventions of nine states shall be sufficient for the establishment of this constitution between the states so ratifying the same.

Done in convention, by the unanimous consent of the states present, the seventeenth day of September, in the year of our Lord one thousand seven hundred and eighty-seven, and of the Independence of the United States of America, the twelfth. In witness whereof we have subscribed our names.

GEORGE WASHINGTON,

*President, and delegate from Virginia.*

*New Hampshire.* John Langdon, Nicholas Gilman.

*Massachusetts.* Nathaniel Gorham, Rufus King.

*Connecticut.* Wm. Samuel Johnson, Roger Sherman.

*New York.* Alexander Hamilton.

*New Jersey.* William Livingston, William Paterson, David Brearly, Jonathan Dayton.

*Pennsylvania,* Benjamin Franklin, Robert Morris, Thomas Fitzsimons, James Wilson, Thomas Mifflin, George Clymer, Jared Ingersoll, Gouverneur Morris.

*Delaware.* George Read, Gunning Bedford, jun. John Dickinson, Richard Bassett, Jacob Broom.

*Maryland.* James M'Henry, Daniel of St. Tho. Jenifer, Daniel Carroll.

*Virginia.* John Blair, James Madison, jun.

*North Carolina.* William Blount, Richard Dobbs Spaight, Hugh Williamson.

*South Carolina.* John Rutledge, Charles Pinckney, Pierce Butler, Cha's Cotesworth Pinckney.

*Georgia.* William Few, Abraham Baldwin.

Attest, WILLIAM JACKSON, *Secretary.*

## AMENDMENTS.

ARTICLE I. Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or abridging the freedom of speech or the press; or the right of the people peaceably to assemble, and to petition the government for a redress of grievances.

ART. II. A well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed.

ART. III. No soldier shall, in time of peace, be quartered in any house without the consent of the owner, nor in time of war, but in a manner to be prescribed by law.

ART. IV. The right of the people to be secure in their persons, houses, papers and effects, against unreasonable searches and seizures, shall not be violated; and no warrant shall issue, but upon probable cause, supported by oath or affirmation, and particularly describing the place to be searched, and the persons or things to be seized.

ART. V. No person shall be held to answer for a capital or other infamous crime, unless on a presentment or indictment of a grand jury, except in cases arising in the land or naval forces, or in the militia when in actual service, in time of war or public danger: nor shall any person be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall be compelled, in any criminal case, to be witness against himself; nor be deprived of life, liberty, or property, without due process of law; nor shall private property be taken for public use, without just compensation.

ART. VI. In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial, by an impartial jury of the state and district wherein the crime shall have been committed, which district shall have been previously ascertained by law; and to be informed of the nature and cause of the accusation: to be confronted with the witnesses against him; to have compulsory process for obtaining witnesses in his favor; and to have the assistance of counsel for his defence.

ART. VII. In suits at law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved; and no fact tried by a jury, shall be otherwise re-examined in any court of the United States, than according to the rules of the common law.

ART. VIII. Excessive bail shall not be required, nor excessive fines imposed, nor cruel and unusual punishments inflicted.

ART. IX. The enumeration in the constitution of certain rights, shall not be construed to deny or disparage others retained by the people.

ART. X. The powers not delegated to the United States by the constitution, nor prohibited by it to the states, are reserved to the states respectively, or to the people.

ART. XI. The judicial power of the United States shall not be construed to extend to any suit, in law or equity, commenced or prosecuted against one of the United States by citizens of another state, or by citizens or subjects of any foreign state.

ART. XII. The electors shall meet in their respective states, and vote, by ballot, for president and vice president, one of whom, at least, shall not be an inhabitant of the same state with themselves: they shall name in their ballots the person voted for as president, and in distinct ballots the person voted for as vice president; and they shall make distinct lists of all persons voted for as president, and of all persons voted for as vice president, and of the number of votes for each: which lists they shall sign and certify, and transmit, sealed, to the seat of government of the United States, directed to the president of the senate: the president of the senate shall, in the presence of the senate and house of representatives, open all the certificates, and the votes shall then be counted; the person having the greatest number of votes for president shall be the president, if such number be a majority of of the whole number of electors appointed; and if no person have such majority, then, from the persons having the highest number, not exceeding three, on the list of those voted for as president, the house of representa-

tives shall choose immediately, by ballot, the president. But, in choosing the president, the votes shall be taken by states, the representation from each state having one vote: a quorum for this purpose shall consist of a member or members from two thirds of the states, and a majority of all the states shall be necessary to a choice. And if the house of representatives shall not choose a president, whenever the right of choice shall devolve upon them, before the fourth day of March next following, then the vice president shall act as president, as in the case of the death or other constitutional disability of the president.

The person having the greatest number of votes as vice president, shall be the vice president, if such number be a majority of the whole number of electors appointed; and if no person have a majority, then, from the two highest numbers on the list, the senate shall choose the vice president: a quorum for the purpose shall consist of two thirds of the whole number of senators, and a majority of the whole number shall be necessary to a choice.

But no person constitutionally ineligible to the office of president, shall be eligible to that of vice president of the United States.

## CONSTITUTION OF THE STATE OF NEW YORK.

WE, the people of the state of New York, acknowledging with gratitude the grace and beneficence of God, in permitting us to make choice of our form of government, do establish this constitution.

## ARTICLE I.

SECTION 1. The legislative power of this state shall be vested in a senate and assembly.

SEC. 2. The senate shall consist of thirty-two members. The senators shall be chosen for four years, and shall be freeholders. The assembly shall consist of one hundred and twenty eight members, who shall be annually elected.

SEC. 3. A majority of each house shall constitute a quorum to do business. Each house shall determine the rules of its own proceedings, and be the judge of the qualifications of its own members. Each house shall choose its own officers; and the senate shall choose a temporary president, when the lieutenant governor shall not attend as president, or shall not act as governor.

SEC. 4. Each house shall keep a journal of its proceedings, and publish the same, except such parts as may require secrecy. The doors of each house shall be kept open, except when the public welfare shall require secrecy. Neither house shall, without the consent of the other, adjourn for more than two days.

SEC. 5. The state shall be divided into eight districts, each of which shall choose four senators.

The first district shall consist of the counties of Suffolk, Queens, Kings, Richmond and New York.

The second district shall consist of the counties of Westchester, Putnam, Dutchess, Rockland, Orange, Ulster and Sullivan.

The third district shall consist of the counties of Greene, Columbia, Albany, Rensselaer, Schoharie and Schenectady.

The fourth district shall consist of the counties of Sa-

ratoga, Montgomery, Hamilton, Washington, Warren, Clinton, Essex, Franklin and St. Lawrence.

The fifth district shall consist of the counties of Herkimer, Oneida, Madison, Oswego, Lewis and Jefferson.

The sixth district shall consist of the counties of Delaware, Otsego, Chenango, Broome, Cortland, Tompkins and Tioga.

The seventh district shall consist of the counties of Onondaga, Cayuga, Seneca and Ontario. [Wayne and Yates since erected.]

The eighth district shall consist of the counties of Steuben, Livingston, Monroe, Genesee, Niagara, Erie, Allegany, Cattaraugus and Chautauque. [Orleans since erected.]

And as soon as the senate shall meet, after the first election to be held in pursuance of this constitution, they shall cause the senators to be divided by lot, into four classes, of eight in each, so that every district shall have one senator of each class: the classes to be numbered, one, two, three and four. And the seats of the first class shall be vacated at the end of the first year; of the second class, at the end of the second year; of the third class, at the end of the third year; of the fourth class, at the end of the fourth year; in order that one senator be annually elected in each senate district.

SEC. 6. An enumeration of the inhabitants of the state shall be taken, under the direction of the legislature, in the year one thousand eight hundred and twenty-five, and at the end of every ten years thereafter; and the said districts shall be so altered by the legislature, at the first session after the return of every enumeration, that each senate district shall contain, as nearly as may be, an equal number of inhabitants, excluding aliens, paupers, and persons of color not taxed, and shall remain unaltered until the return of another enumeration, and shall at all times consist of contiguous territory; and no county shall be divided in the formation of a senate district.

SEC. 7. The members of the assembly shall be chosen by counties, and shall be apportioned among the several counties of the state, as nearly as may be, according to the numbers of their respective inhabitants, excluding



aliens, paupers, and persons of color not taxed. An apportionment of members of assembly shall be made by the legislature, at its first session after the return of every enumeration; and, when made, shall remain unaltered until another enumeration shall have been taken. But an apportionment of members of the assembly shall be made by the present legislature according to the last enumeration, taken under authority of the United States, as nearly as may be. Every county heretofore established, and separately organized, shall always be entitled to one member of assembly, and no new county shall hereafter be erected unless its population shall entitle it to a member.

SEC. 8. Any bill may originate in either house of the legislature; and all bills passed by one house may be amended by the other.

SEC. 9. The members of the legislature shall receive for their services, a compensation to be ascertained by law, and paid out of the public treasury; but no increase of the compensation shall take effect during the year in which it shall have been made. And no law shall be passed, increasing the compensation of the members of the legislature beyond the sum of three dollars a day.

SEC. 10. No member of the legislature shall receive any civil appointment from the governor and senate, or from the legislature, during the term for which he shall have been elected.

SEC. 11. No person being a member of congress, or holding any judicial or military office under the United States, shall hold a seat in the legislature. And if any person shall, while a member of the legislature, be elected to congress, or appointed to any office, civil or military, under the government of the United States, his acceptance thereof shall vacate his seat.

SEC. 12. Every bill which shall have passed the senate and assembly, shall, before it become a law, be presented to the governor. If he approve, he shall sign it; but if not, he shall return it, with his objections, to that house in which it shall have originated; who shall enter the objections at large on their journal, and proceed to reconsider it. If after such reconsideration, two thirds

of the members present shall agree to pass the bill, it shall be sent, together with the objections, to the other house, by which it shall likewise be reconsidered, and if approved by two thirds of the members present, it shall become a law. But in all such cases, the votes of both houses shall be determined by yeas and nays; and the names of the persons voting for and against the bill, shall be entered on the journal of each house respectively. If any bill shall not be returned by the governor within ten days (Sundays excepted) after it shall have been presented to him, the same shall be a law, in like manner as if he had signed it, unless the legislature shall, by their adjournment, prevent its return; in which case it shall not be a law.

SEC. 13. All officers holding their offices during good behavior, may be removed by joint resolution of the two houses of the legislature, if two thirds of all the members elected to the assembly, and a majority of all the members elected to the senate, concur therein.

SEC. 14. The political year shall begin on the first day of January, and the legislature shall every year assemble on the first Tuesday of January, unless a different day shall be appointed by law.

SEC. 15. The next election for governor, lieutenant governor, senators and members of assembly, shall commence on the first Monday of November, one thousand eight hundred and twenty-two; and all subsequent elections shall be held at such time, in the month of October or November, as the legislature shall by law provide.

SEC. 16. The governor, lieutenant governor, senators, and members of assembly, first elected under this constitution, shall enter on the duties of their respective offices, on the first day of January, one thousand eight hundred and twenty-three; and the governor, lieutenant governor, senators and members of assembly, now in office, shall continue to hold the same until the first day of January, one thousand eight hundred and twenty-three, and no longer.

## ARTICLE II.

SEC. 1. Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this state one

year preceeding any election, and for the last six months a resident of the town or county where he may offer his vote; and shall have, within the year next preceeding the election, paid a tax to the state or county, assessed upon his real or personal property; or shall by law be exempted from taxation; or being armed and equipped according to law, shall have performed, within that year, military duty in the militia of this state; or who shall be exempted from performing military duty in consequence of being a fireman in any city, town or village, in this state: and also every male citizen of the age of twenty-one years, who shall have been, for three years next preceeding such election an inhabitant of this state; and for the last year, a resident in the town or county where he may offer his vote; and shall have been, within the last year, assessed to labor on the public highways, and shall have performed the labor, or paid an equivalent therefor, according to law; shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people. But no man of color, unless he shall have been for three years a citizen of this state, and for one year next preceeding any election, shall be seized and possessed of a freehold estate of the value of two hundred and fifty dollars, over and above all debts and incumbrances thereon; and shall have been actually rated, and paid a tax thereon, shall be entitled to vote at any such election. And no person of color shall be subject to direct taxation, unless he shall be seized and possessed of such real estate as aforesaid.

SEC. 2. Laws may be passed, excluding from the right of suffrage, persons who have been or may be convicted of infamous crimes.

SEC. 3. Laws shall be made for ascertaining by proper proofs, the citizens who shall be entitled to the right of suffrage hereby established.

SEC. 4. All elections by the citizens shall be by ballot, except for such town officers as may by law be directed to be otherwise chosen.

## ARTICLE III.

SEC. 1. The executive power shall be vested in a governor. He shall hold his office for two years; and a lieutenant governor shall be chosen at the same time, and for the same term.

SEC. 2. No person except a native citizen of the United States, shall be eligible to the office of governor; nor shall any person be eligible to that office, who shall not be a freeholder, and shall not have attained the age of thirty years, and have been five years a resident within this state; unless he shall have been absent during that time on public business of the United States, or of this state.

SEC. 3. The governor and lieutenant governor shall be elected at the times and places of choosing members of the legislature. The persons respectively having the highest number of votes for governor and lieutenant governor, shall be elected; but in case two or more shall have an equal and the highest number of votes for governor or for lieutenant governor, the two houses of the legislature shall, by joint ballot, choose one of the said persons so having an equal and the highest number of votes for governor or lieutenant governor.

SEC. 4. The governor shall be general and commander-in-chief of the militia, and admiral of the navy of the state. He shall have power to convene the legislature, (or senate only,) on extraordinary occasions. He shall communicate by message to the legislature at every session, the condition of the state; and recommend such matters to them as he shall judge expedient. He shall transact all necessary business with the officers of government, civil and military. He shall expedite all such measures as may be resolved upon by the legislature, and take care that the laws are faithfully executed. He shall, at stated times, receive for his services a compensation, which shall neither be increased nor diminished during the term for which he shall have been elected.

SEC. 5. The governor shall have power to grant reprieves and pardons after conviction, for all offences, except treason and impeachment. Upon convictions for

reason, he shall have power to suspend the execution of the sentence, until the case shall be reported to the legislature at its next meeting; when the legislature shall either pardon or direct the execution of the criminal, or grant a further reprieve.

SEC. 6. In case of the impeachment of the governor, or his removal from office, death, resignation, or absence from the state, the powers and duties of the office shall devolve upon the lieutenant governor for the residue of the term, or until the governor, absent or impeached, shall return or be acquitted. But when the governor shall, with the consent of the legislature, be out of the state in time of war, at the head of the military force thereof, he shall continue commander-in-chief of the military force of the state.

SEC. 7. The lieutenant governor shall be president of the senate, but shall have only a casting vote therein. If, during a vacancy of the office of governor, the lieutenant governor shall be impeached, displaced, resign, die, or be absent from the state, the president of the senate shall act as governor, until the vacancy shall be filled, or the disability shall cease.

#### ARTICLE IV.

SEC. 1. Militia officers shall be chosen or appointed as follows: captains, subalterns, and non-commissioned officers, shall be chosen by the written votes of the members of their respective companies. Field officers of regiments and separate battalions, by the written votes of the commissioned officers of the respective regiments and separate battalions. Major generals, brigadier generals, and commanding officers of regiments or separate battalions, shall appoint the staff officers of their respective divisions, brigades, regiments or separate battalions.

SEC. 2. The governor shall nominate, and with the consent of the senate, appoint, all major generals, brigade inspectors, and chief of the staff departments, except the adjutant general and commissary general; the adjutant general shall be appointed by the governor.

SEC. 3. The legislature shall, by law, direct the time

and manner of electing militia officers, and of certifying their election to the governor.

SEC. 4. The commissioned officers of the militia shall be commissioned by the governor; and no commissioned officer shall be removed from office, unless by the senate, on the recommendation of the governor, stating the grounds on which such removal is recommended, or by the decision of the court martial pursuant to law. The present officers of the militia shall hold their commissions, subject to removal as before provided.

SEC. 5. In case the mode of election and appointment of militia officers hereby directed, shall not be found conducive to the improvement of the militia, the legislature may abolish the same, and provide by law for their appointment and removal, if two thirds of the members present in each house shall concur therein.

SEC. 6. The secretary of state, comptroller, treasurer, attorney general, surveyor general, and commissary general, shall be appointed as follows: The senate and assembly shall each openly nominate one person for the said offices respectively; after which, they shall meet together, and if they agree in their nominations, the person so nominated shall be appointed to the office for which he shall be nominated. If they shall disagree, the appointment shall be made by the joint ballot of the senators and members of assembly. The treasurer shall be chosen annually. The secretary of state, comptroller, attorney general, surveyor general, and commissary general, shall hold their offices for three years, unless sooner removed by concurrent resolution of the senate and assembly.

SEC. 7. The governor shall nominate, by message or writing, and with the consent of the senate, shall appoint, all judicial officers, except justices of the peace, who shall be appointed in manner following, that is to say: The board of supervisors in every county in this state, shall at such time as the legislature may direct, meet together; and they, or a majority of them so assembled, shall nominate so many persons as shall be equal to the number of justices of the peace to be appointed in the several towns in their respective counties. And the judges of the re-

pective county courts, or a majority of them, shall also meet and nominate a like number of persons; and it shall be the duty of the said board of supervisors, and judges of county courts, to compare such nominations, at such time and place as the legislature may direct; and if, on such comparison, the said boards of supervisors and judges of county courts shall agree in their nominations, in all, or in part, they shall file a certificate of the nominations in which they shall agree, in the office of the clerk of the county; and the person or persons named in such certificates, shall be justices of the peace; and in case of the disagreement in the whole, or in part, it shall be the farther duty of the said boards of supervisors and judges respectively, to transmit their said nominations, so far as they disagree in the same, to the governor, who shall select from the said nominations, and appoint so many justices of the peace as shall be requisite to fill the vacancies.— Every person appointed a justice of the peace, shall hold his office for four years, unless removed by the county court, for causes particularly assigned by the judges of the said courts; and no justice of the peace shall be removed, until he shall have notice of the charges made against him, and an opportunity of being heard in his defence.

SEC. 8. Sheriffs and clerks of counties, including the register and clerk of the city and county of New York, shall be chosen by the electors of the respective counties, once in every three years, and as often as vacancies shall happen. Sheriffs shall hold no other office, and be ineligible for the next three years after the termination of their offices. They may be required by law to renew their security, from time to time; and in default of giving such new security, their offices shall be deemed vacant. But the county shall never be made responsible for the acts of the sheriff; and the governor may remove any such sheriff, clerk or register, at any time within the three years for which he shall be elected, giving to such sheriff, clerk or register, a copy of the charges against him, and an opportunity of being heard in his defence, before any removal shall be made.

SEC. 9. The clerks of courts, except those clerks whose

appointment is provided for in the preceding section, shall be appointed by the courts of which they respectively are clerks; and district attorneys by the county courts.— Clerks of courts, and district attorneys, shall hold their offices for three years, unless sooner removed by the courts appointing them.

SEC. 10. The mayors of all the cities in this state shall be appointed annually by the common councils of their respective cities.

SEC. 11. So many coroners as the legislature may direct, not exceeding four in each county, shall be elected in the same manner as sheriffs, and shall hold their offices for the same term, and be removable in like manner.

SEC. 12. The governor shall nominate, and, with the consent of the senate, appoint, masters and examiners in chancery; who shall hold their offices for three years, unless sooner removed by the senate, on the recommendation of the governor. The registers and assistant registers, shall be appointed by the chancellor, and hold their offices during his pleasure.

SEC. 13. The clerk of the court of oyer and terminer, and general sessions of the peace, in and for the city and county of New York, shall be appointed by the court of general sessions of the peace in said city, and hold his office during the pleasure of said court; and such clerks and other officers of courts, whose appointment is not herein provided for, shall be appointed by the several courts; or by the governor, with the consent of the senate, as may be directed by law.

SEC. 14. The special justices, and the assistant justices; and their clerks, in the city of New York, shall be appointed by the common council of the said city; and shall hold their offices for the same term that the justices of the peace, in the other counties of this state, hold their offices, and shall be removable in like manner.

SEC. 15. All officers heretofore elective by the people, shall continue to be elected; and all other officers whose appointment is not provided for by this constitution, and all officers whose offices may be hereafter created by law,



shall be elected by the people, or appointed, as may by law be directed.

SEC. 16. Where the duration of any office is not prescribed by this constitution, it may be declared by law; and if not so declared, such office shall be held during the pleasure of the authority making the appointment.

#### ARTICLE V.

SEC. 1. The court for the trial of impeachments, and the correction of errors, shall consist of the president of the senate, the senators, the chancellors, and the justices of the supreme court, or the major part of them; but when an impeachment shall be prosecuted against the chancellor, or any justice of the supreme court, the person so impeached shall be suspended from exercising his office, until his acquittal; and when an appeal from a decree in chancery shall be heard, the chancellor shall inform the court of the reasons for his decree, but shall have no voice in the final sentence; and when a writ of error shall be brought, on a judgment of the supreme court, the justices of that court shall assign the reasons for their judgment, but shall not have a voice for its affirmance or reversal.

SEC. 2. The assembly shall have the power of impeaching all civil officers of this state for mal and corrupt conduct in office, and high crimes and misdemeanors: but a majority of all the members elected shall concur in an impeachment. Before the trial of an impeachment, the members of the court shall take an oath or affirmation, truly and impartially to try and determine the charge in question according to evidence: and no person shall be convicted, without the concurrence of two thirds of the members present. Judgment in cases of impeachment, shall not extend farther than the removal from office, and disqualification to hold and enjoy any office of honor, trust or profit, under this state; but the party convicted shall be liable to indictment and punishment, according to law.

SEC. 3. The chancellor and justices of the supreme court, shall hold their offices during good behavior, or until they shall attain the age of sixty years.

SEC. 4. The supreme court shall consist of a chief justice and two justices, any of whom may hold the court.

SEC. 5. The state shall be divided, by law, into a convenient number of circuits, not less than four nor exceeding eight, subject to alteration by the legislature, from time to time, as the public good may require; for each of which a circuit judge shall be appointed, in the same manner, and hold his office by the same tenure, as the justices of the supreme court: and who shall possess the powers of a justice of the supreme court at chambers, and in the trial of issues joined in the supreme court, and in courts of oyer and terminer and jail delivery. And such equity powers may be vested in said circuit judges, or in the county courts, or in such other subordinate courts, as the legislature may by law direct, subject to the appellate jurisdiction of the chancellor.

SEC. 6. Judges of the county courts, and recorders of cities, shall hold their offices for five years, but may be removed by the senate, on the recommendation of the governor, for causes to be stated in such recommendation.

SEC. 7. Neither the chancellor, nor justices of the supreme court, nor any circuit judge, shall hold any other office of public trust. All votes for any elective office, given by the legislature or the people, for the chancellor, or a justice of the supreme court, or circuit judge, during his continuance in his judicial office, shall be void.

## ARTICLE VI.

SEC. 1. Members of the legislature, and all officers, executive and judicial, except such inferior officers as may by law be exempted, shall, before they enter on the duties of their respective offices, take and subscribe the following oath or affirmation:

"I do solemnly swear, (or affirm, as the case may be,) that I will support the constitution of the United States, and the constitution of the state of New York, and that I will faithfully discharge the duties of the office of ———, according to the best of my ability."

And no other oath, declaration or test, shall be required as a qualification for any office or public trust.

## ARTICLE VII.

SEC. 1. No member of this state shall be disfranchised, or deprived of any of the rights or privileges secured to any citizen thereof, unless by the law of the land, or the judgment of his peers.

SEC. 2. The trial by jury, in all cases in which it has been heretofore used, shall remain inviolate for ever; and no new court shall be instituted, but such as shall proceed according to the course of the common law; except such courts of equity as the legislature is herein authorized to establish.

SEC. 3. The free exercise and enjoyment of religious profession and worship, without discrimination or preference, shall for ever be allowed in this state, to all mankind; but the liberty of conscience hereby secured, shall not be so construed as to excuse acts of licentiousness, or justify practices inconsistent with the peace or safety of this state.

SEC. 4. And whereas the ministers of the gospel are, by their profession, dedicated to the service of God, and the cure of souls, and ought not to be diverted from the great duties of their functions; therefore, no minister of the gospel, or priest of any denomination whatsoever, shall at any time hereafter, under any pretence or description whatever, be eligible to, or capable of holding, any civil or military office or place within this state.

SEC. 5. The militia of this state shall, at all times hereafter, be armed and disciplined, and in readiness for service; but all such inhabitants of this state, of any religious denomination whatever, as from scruples of conscience may be averse to bearing arms, shall be excused therefrom, by paying to the state an equivalent in money; and the legislature shall provide by law for the collection of such equivalent, to be estimated according to the expense in time and money, of an ordinary able bodied militia man.

SEC. 6. The privilege of the writ of *habeas corpus* shall not be suspended, unless when, in cases of rebellion or invasion, the public safety may require its suspension.

SEC. 7. No person shall be held to answer for a capi-

tal, or other infamous crime, (except in cases of impeachment, and in cases of the militia when in actual service; and the land and naval forces in time of war, or which this state may keep, with the consent of congress, in time of peace, and in cases of petit larceny, under the regulation of the legislature;) unless on presentment, or indictment of a grand jury; and in every trial on impeachment or indictment, the party accused shall be allowed counsel as in civil actions. No person shall be subject, for the same offence, to be twice put in jeopardy of life or limb; nor shall he be compelled, in any criminal case, to be a witness against himself; nor be deprived of life, liberty, or property, without due process of law: nor shall private property be taken for public use, without just compensation.

SEC. 8. Every citizen may freely speak, write and publish his sentiments, on all subjects, being responsible for the abuse of that right; and no law shall be passed to restrain or abridge the liberty of speech, or of the press. In all prosecutions or indictment for libels, the truth may be given in evidence to the jury: and if it shall appear to the jury, that the matter charged as libellous is true, and was published with good motives, and for justifiable ends, the party shall be acquitted; and the jury shall have the right to determine the law and the fact.

SEC. 9. The assent of two thirds of the members elected to each branch of the legislature, shall be requisite to every bill appropriating the public moneys or property, for local or private purposes, or creating, continuing, altering, or renewing, any body politic or corporate.

SEC. 10. The proceeds of all lands belonging to this state, except such parts thereof as may be reserved or appropriated to public use, or ceded to the United States, which shall hereafter be sold or disposed of, together with the fund denominated the common school fund, shall be and remain a perpetual fund, the interest of which shall be inviolably appropriated to the support of common schools throughout this state. Rates of toll, not less than those agreed to by the canal commissioners, and set forth in their report to the legislature of the twelfth of March,

one thousand eight hundred and twenty-one, shall be imposed on, and collected from, all parts of the navigable communication between the great western and northern lakes, and the Atlantic ocean, which now are, or hereafter shall be, made and completed; and the said tolls, together with the duties on the manufacture of all salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen; and the duties on goods sold at auction, excepting therefrom the sum of thirty-three thousand five hundred dollars, otherwise appropriated by the said act; and the amount of the revenue established by the act of the legislature of the thirtieth of March, one thousand eight hundred and twenty, in lieu of the tax upon steam boat passengers; shall be and remain inviolably appropriated and applied to the completion of such navigable communications, and to the payment of the interest, and reimbursement of the capital, of the money borrowed, or which hereafter shall be borrowed, to make and complete the same. And neither the rates of toll on the said navigable communications, nor the duties on the manufacture of salt aforesaid, nor the duties on goods sold at auction, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen; nor the amount of the revenue, established by the act of March the thirtieth, one thousand eight hundred and twenty, in lieu of the tax upon steam boat passengers; shall be reduced or diverted, at any time, before the full and complete payment of the principal and interest of the money borrowed, or to be borrowed, as aforesaid. And the legislature shall never sell or dispose of the salt springs belonging to this state, nor the lands contiguous thereto, which may be necessary or convenient for their use, nor the said navigable communications or any part or section thereof; but the same shall be and remain the property of this state.

SEC. 11. No lottery shall hereafter be authorized in this state; and the legislature shall pass laws to prevent the sale of all lottery tickets, within this state, except in lotteries already provided for by law.

SEC. 12. No purchase or contract for the sale of lands

in this state, made since the fourteenth day of October, one thousand seven hundred and seventy-five, or which may hereafter be made, of or with the Indians in this state, shall be valid, unless under the authority and consent of the legislature.

SEC. 13. Such parts of the common law, and of the acts of the legislature of the colony of New York, as together did form the law of the said colony on the nineteenth day of April, one thousand seven hundred and seventy-five, and the resolutions of the congress of the said colony, and of the convention of the State of New York, in force on the twentieth day of April, one thousand seven hundred and seventy-seven, which have not since expired, or been repealed, or altered; and such acts of the legislature of this state as are now in force, shall be and continue the law of this state, subject to such alterations as the legislature shall make concerning the same. But all such parts of the common law, and such of the said acts, or parts thereof, as are repugnant to this constitution, are hereby abrogated.

SEC. 14. All grants of land within this state, made by the king of Great Britain, or persons acting under his authority, after the fourteenth day of October, one thousand seven hundred and seventy-five, shall be null and void; but nothing contained in this constitution shall affect any grants of land within this state, made by the authority of the said king or his predecessors, or shall annul any charters to bodies politic and corporate, by him or them made before that day; or shall affect any such grants or charters since made by this state, or by persons acting under its authority; or shall impair the obligations of any debts contracted by the state, or individuals, or bodies corporate, or any other rights of property, or any suits, actions, rights of action, or other proceedings, in courts of justice.

## ARTICLE VIII.

SEC. 1. Any amendment or amendments to this constitution, may be proposed in the senate or assembly; and if the same shall be agreed to by a majority of the members elected to each of the two houses, such proposed amend-

ment or amendments shall be entered on the journals, with the yeas and nays taken thereon, and referred to the legislature next to be chosen, and shall be published for three months previous to the time of making such choice : and, if in the legislature next chosen as aforesaid, such proposed amendment or amendments shall be agreed to by two thirds of all the members elected to each house, then it shall be the duty of the legislature to submit such proposed amendment or amendments to the people, in such manner and at such time as the legislature shall prescribe : and if the people shall approve and ratify such amendment or amendments, by a majority of the electors qualified to vote for members of the legislature voting thereon, such amendment or amendments shall become part of the constitution.

#### ARTICLE IX.

SEC. 1. This constitution shall be in force from the last day of December, in the year one thousand eight hundred and twenty-two. But all those parts of the same, which relate to the right of suffrage ; the division of the state into senate districts : the number of members of the assembly to be elected, in pursuance of this constitution ; the apportionment of members of assembly : the elections hereby directed to commence on the first Monday of November, in the the year one thousand eight hundred and twenty two ; the continuance of members of the present legislature in office until the first day of January, in the year one thousand eight hundred and twenty-three ; and the prohibition against authorizing lotteries ; the prohibition against appropriating the public moneys or property for local or private purposes, or creating, continuing, altering, or renewing any body politic or corporate, without the assent of two thirds of the members elected to each branch of the legislature, shall be in force and take effect from the last day of February next. The members of the present legislature shall, on the first Monday of March next, take and subscribe an oath or affirmation to support the constitution, so far as the same shall then be in force. Sheriffs, clerks of counties, and coroners, shall be elected at the election hereby directed to commence on the first

Monday of November, in the year one thousand eight hundred and twenty-two; but they shall not enter on the duties of their office before the first day of January then next following. The commissions of all persons holding civil offices on the last day of December, one thousand eight hundred and twenty-two, shall expire on that day; but the officers then in commission, may respectively continue to hold their said offices, until new appointments or elections shall take place under this constitution.

SEC. 2. The existing laws relative to the manner of notifying, holding and conducting elections, making returns, and canvassing votes, shall be in force, and observed in respect to the elections hereby directed to commence on the first Monday of November, in the year one thousand eight hundred and twenty-two, so far as the same are applicable. And the present legislature shall pass such other and further laws as may be requisite for the execution of the provisions of this constitution in respect to elections.

Done in convention, at the capitol, in the city of Albany, the tenth day of November, in the year one thousand eight hundred and twenty-one, and of the independence of the United States of America, the forty sixth. In witness thereof, we have hereunto subscribed our names.

DANIEL D. TOMPKINS, *President.*

JOHN F. BACON,                    {  
SAMUEL S. GARDINER,        } *Secretaries.*

[The foregoing constitution was ratified by the people at an election held in the several towns and wards of this state, on the fifteenth, sixteenth, and seventeenth days of January, one thousand eight hundred and twenty-two.]



## AMENDMENTS.

[The following amendments to the constitution were proposed by the legislature in 1825, were referred to the legislature of 1826, agreed to by two thirds of the members elected to each house of that legislature, submitted to the people, and approved and ratified at an election held on the 6th, 7th and 8th days of November, 1826.]

## FIRST AMENDMENT.

That the people of this state, in their several towns, shall, at their annual election, and in such manner as the legislature shall direct, elect by ballot their justices of the peace; and the justices so elected in any town, shall immediately thereafter meet together, and in presence of the supervisor and town clerk of the said town, be divided by lot into four classes, of one in each class, and be numbered, one, two, three and four; and the office of number one shall expire at the end of the first year, of number two at the end of the second year, of number three at the end of the third year, and of number four at the end of the fourth year, in order that one justice may thereafter be annually elected: and that so much of the seventh section of the fourth article of the constitution of this state as is inconsistent with this amendment, be abrogated.

## SECOND AMENDMENT.

That so much of the first section of the second article of the constitution as prescribes the qualifications of voters, other than persons of color, be, and the same is, hereby abolished, and that the following be substituted in the place thereof:

Every male citizen of the age of twenty-one years, who shall have been an inhabitant of this state one year next preceding any election, and for the last six months a resident of the county where he may offer his vote, shall be entitled to vote in the town or ward where he actually resides, and not elsewhere, for all officers that now are, or hereafter may be, elective by the people.

## THIRD AMENDMENT.

[The following amendments, having been previously proposed by the legislature, were ratified by the people at the annual election in November, 1833.]

That the duties on the manufacture of salt, as established by the act of the fifteenth of April, one thousand eight hundred and seventeen, and by the tenth section of the seventh article of the constitution of this state, may at any time hereafter be reduced by an act of the legislature of this state, but shall not, while the same is appropriated and pledged by the said section, be reduced below the sum of six cents upon each and every bushel, and the said duties shall remain inviolably appropriated and applied as is provided by the said tenth section; and that so much of the said tenth section of the seventh article of the constitution of this state as is inconsistent with this amendment, be abrogated.

## FOURTH AMENDMENT.

At the end of the tenth section of the fourth article of the said constitution, add the following words: "Except in the city of New York, in which the mayor shall be chosen annually by the electors thereof qualified to vote for the other charter officers of the said city, and at the time of the election of such officers."

## RIGHTS OF LANDLORD AND TENANT.

Every contract for leasing for a longer period than one year, or for the sale of any lands, or any interest in lands, is void, unless the contract, or some memorandum thereof, expressing the consideration, be in writing, and be subscribed by the party by whom the lease or sale is to be made, or by an agent lawfully authorized.

Leases for a term exceeding three years, in order to be valid, must be recorded in the same manner as conveyances of real estate, except in the counties of Albany, Ulster, Sullivan, Herkimer, Dutchess, Columbia, Delaware and Schenectady.

Every conveyance of any estate or interest in lands, or the rents and profits of lands, and every charge upon lands, or upon the rents and profits thereof, made or created, with intent to defraud prior or subsequent purchasers for a valuable consideration, shall be void, as against such purchasers.

Whenever there is a tenancy at will or by sufferance created, by the tenant's holding over his term, or otherwise, the same may be terminated by the landlord's giving one month's notice in writing to the tenant, requiring him to remove therefrom.

Such notice shall be served by delivering the same to such tenant, or to some person of proper age residing on the premises; or if the tenant cannot be found, and there be no such person residing on the premises, such notice may be served by affixing the same on a conspicuous part of the premises, where it may be conveniently read.

At the expiration of one month from the service of such notice, the landlord may re-enter, or maintain ejectment, or proceed in the manner prescribed by law, without any further or other notice to quit.

If a tenant shall give notice of his intention to quit the premises, and shall not accordingly deliver up the possession thereof, at the time specified in the notice, such tenant, his executors or administrators, shall thenceforward

pay to the landlord, his heirs or assigns, double rent, which shall be continued to be paid during the time the tenant shall continue in possession.

If a tenant for life or years shall wilfully hold over any lands or tenements after the termination of such terms, and after demand made, and one month's notice duly given, he shall be liable to pay to the person kept out of possession, or his representatives, at the rate of double the yearly value of the lands or tenements so detained, for the time he shall so hold over; and he shall also pay all special damages to which the person kept out of possession shall be subjected by reason of such holding over.

When any certain services or certain rent reserved out of any lands or tenements, shall not be paid when due, the person entitled thereto, may distrain for the same. But no distress may be made for any rent for which a judgment has been recovered in a personal action.

A landlord may secure rent due, when any goods or chattels liable to distress for rent are seized under execution, by giving notice, at any time before the sale of the goods by virtue of the execution, either to the party in whose favor the execution shall be issued, or to the officer holding the same, of the amount claimed by the landlord to be due, and the time during which it accrued; and by accompanying such notice with his own affidavit, or that of his agent, of the truth thereof.

Upon receiving the notice and affidavit, the officer holding the execution, shall levy the amount of rent claimed to be due, in addition to the sum directed to be raised on the execution, and shall pay the same to the landlord; but the amount of rent to be levied shall not exceed one year's rent. If there be a deficiency of goods and chattels to satisfy both the execution and rent, the amount levied shall be first applied to the satisfaction of the rent; and the remainder shall be applied upon the execution.

If a tenant against whom an execution is issued, shall deny that rent is due to his landlord, as claimed, he may prevent the levying thereof, by virtue of such execution, by delivering to the officer holding it, a bond, with two sufficient sureties, executed to the landlord, in a penalty

of double the amount of rent claimed, with a condition that all rent due shall be paid, not exceeding one year's rent of the premises.

If a landlord, under the foregoing provisions, claims more rent than what is due to him, and if the excess be collected, the tenant may sue for and recover of the landlord, double the amount of such excess. And in all cases in which rent is pretended to be due, when none is due, the owner of goods distrained may recover against the person so claiming, double their value.

An officer making a distress for rent, must give notice thereof, with the cause of the distress, the amount due, and an inventory of the articles taken, by leaving the same with the tenant, or in case of his absence, at the chief mansion house, or at some other notorious place on the premises.

At the expiration of five days from the day on which the notice was served, if the amount of rent due, with costs of distress, be not paid, and the goods distrained be not replevied, the officer shall summon two disinterested householders, who, under oath administered by the officer, shall appraise the goods and chattels distrained, and state the same in writing.

Upon the appraisement being made, the officer shall give five days' notice of sale, by affixing such notice on a conspicuous part of the premises, and in two public places in the town; and on the day, and at the place, appointed, he shall sell the goods at public auction at the best price that can be obtained; and apply the proceeds to the satisfaction of the costs and rent, and pay the surplus, if any, to the owner of the goods.

If distress be made for rent justly due, any irregularity or unlawful act afterwards done by the party distressing, shall not render the distress unlawful; but the party aggrieved may recover for the special damages sustained by such irregularity or unlawful act, with costs of suit.

Every person entitled to any rents dependent upon the life of any other, may, notwithstanding the death of such other person, have the same remedy by action or by distress, for the recovery of all arrears of such rent, that

shall be behind and unpaid at the death of such other person, as he might have had if such other person was in full life.

If a tenant for life, who shall have rented any lands to another, die on or after the day when any rent became due, his executors or administrators may recover from the under tenant the whole rent due: if he die before the day on which the rent is to become due, they may recover the proportion of rent which accrued before his death.

When a tax on real estate shall have been collected of an occupant or tenant, and the tax ought to have been paid by the landlord or any other person, the occupant or tenant may recover, by action, the amount of such tax, or retain the same from any rent due or accruing from him for the land so taxed.

Whenever a half year's rent or more shall be due, and no sufficient distress can be found, the landlord may bring an action of ejectment for the recovery of the premises: But the tenant may, at any time before judgment, stay proceedings, by tender of all the rent, and all costs and charges incurred by the lessor.

At any time within six months after a landlord shall have taken possession of the premises recovered in action of ejectment, the premises shall be restored to the tenant or lessee, on payment or tender to the landlord or lessor, of all rent in arrear, and all costs and charges incurred by the lessor.

If a tenant in arrear for rent shall desert the premises, without leaving thereon any goods subject to distress, any justice of the peace of the county may, at the request of the landlord, view the premises, and on being satisfied that the premises have been deserted, he shall affix a notice upon a conspicuous part of the premises, requiring the tenant to appear and pay the rent due, at the time specified in the notice, not less than five, nor more than twenty days, after the date thereof.

At the time specified, the justice shall again view the premises; and if the tenant appear and deny that rent is due to the landlord, all proceedings shall cease. If the tenant, or some one for him, shall not appear, and pay the

rent, and there shall not be sufficient distress on the premises; then the justice may put the landlord into possession of the same.

The goods and chattels of a tenant may be distrained after they shall have been removed from the premises, whether the removal be made before or after the rent shall become due. If the rent be due at the time of the removal, or shall become due within thirty days thereafter, the goods may be seized within the said thirty days after such removal. If no rent be due or become due within that time, then the seizure may be made at any time within thirty days after the rent shall become due: provided such seizure be made within six months after the removal of the goods: but no goods shall be liable to be seized which shall have been previously sold, in good faith, and for a valuable consideration, to a person not privy to such fraudulent removal.

Any tenant or lessee who shall remove his goods from any demised premises, either before or after any rent shall become due, for the purpose of avoiding the payment of such rent; and every person who shall knowingly assist such tenant or lessee in such removal, or in concealing any goods so removed; shall forfeit to the landlord of the demised premises, his heirs or assigns, double the value of the goods so removed or concealed.

Personal property deposited with a tenant, with the consent of the landlord, or hired by such tenant, or lent to him, with the like consent, shall not be distrained for any rent due to such landlord. And property belonging to any other person than the tenant, which shall have accidentally strayed on the demised premises, or which shall be deposited with a tavern keeper, or with the keeper of any ware house, in the usual course of their business, or deposited with a mechanic or other person, for the purpose of being repaired or being manufactured, shall not be subject to distress or sale for rent; but the officer making the distress, shall not be liable for seizing or selling property not belonging to the tenant, unless previous notice shall have been given him of the claim of a third person.

Distress for rent shall be made by the sheriff of the

county, or one of his deputies, or by a constable or marshal of the city or town where the goods are, who shall conduct the proceedings throughout.

No distress shall be driven out of the town where it shall be taken, except to a pound within the same county, not above three miles distant from the place where such distress shall have been taken. All beasts, or goods or chattels taken as a distress at one time, shall be kept, as near as may be, in the same place.

An officer may not make distress for rent, unless the warrant of distress be accompanied by an affidavit of the landlord, or his agent, specifying the amount of rent due, and the time for which it accrued.

Within ten days after the sale of goods for rent, or after they shall have been replevied, the officer is required to file the original warrant of distress, with the original affidavit of the landlord, in the office of the town clerk. In the city and county of New York, in the city and county of Albany, in the cities of Troy, Hudson and Schenectady, such warrant and affidavit shall be filed in the office of the clerk of the county. Any officer violating this provision, shall forfeit fifty dollars to the person whose property shall have been distrained.

All distresses for rent shall be reasonable; and whosoever shall take an unreasonable distress, shall be liable to an action on the case, at the suit of the party aggrieved, for the damages sustained thereby.



## PRACTICAL OBSERVATIONS.

It has been asserted by the advocates of monarchy, that man is not capable of self-government. Because all former experiments at free government have proved unsuccessful, it is predicted that the free institutions of this country will be of short duration. And, from the fallibility of man, and the presumed imperfection of all human governments, not a few of the friends of liberty even, have indulged apprehensions of the inevitable dissolution of our political system.

But it should be remembered, that our government differs essentially, both in its origin and principles, from any that has preceded it. Whereas others have been the result of mere chance, or of unavoidable necessity, ours is the contrivance of an assembly of men, not surpassed, probably, in point of wisdom and exalted patriotism, by any political body ever assembled. These men, aided by the light of their own experience, and the history of other governments, deliberately planned a system of government, under which those comparatively feeble states have, in less than half a century, become a most powerful and increasingly prosperous nation—a system which commands the admiration of the friends of freedom throughout the world.

The principles upon which our government is founded, are the immutable principles of JUSTICE and TRUTH. It was the grand sentiment of those who first declared the colonies to be free and independent states, that all just power in any government is derived from the governed: and this sentiment has been recognized, in a remarkable degree, in the form of government which was subsequently adopted. The constitution distinctly acknowledges the people to be the source of political power, and invests them with the exclusive right of exercising it.

A distinguishing characteristic of our constitution is, the extreme care with which it guards the rights of the people against infringement by official power. The ruler is the servant, not the master, of the people. He is made accountable to them for his acts, and holds his power at their will and pleasure.

Another excellence of our system consists in the division and distribution of the civil power among the several branches of the government, legislative, executive and judicial: and in the effectual guards provided by the constitution, to protect each branch, in the exercise of its functions, against encroachment by the others.

Civil and religious liberty is guarantied by our constitution, in the fullest extent. The right of personal liberty, the right of personal security, and the right to acquire and enjoy property, could not have been more effectually secured. The constitution breathes throughout the spirit of liberty. Civil and religious freedom are effectually secured, both by the national and state constitutions.

Equality is a prominent feature of our government. Equal rights and privileges, so far at least as the constitution is capable of conferring them, are enjoyed in this country. No distinctions are created by birth or property. The rich and poor, as it regards political power, are placed on the same level.

But the excellence of our system of government affords, of itself, no effectual security for its permanence. No human institution, whatever may be its qualities, contains, within itself, the principle of self-preservation. It would be unwise, therefore, to trust to the intrinsic excellence of our institutions. It is the duty of every citizen to watch the approaches of danger, and to apply the means necessary to the preservation of our liberties.

Among the dangers to which our government is exposed, are the indifference and apathy of the people. It is a common maxim among the people of this country, that "the price of liberty is eternal vigilance;" and the acknowledged truth of this maxim, as well as the venerable source from which it originated, commends it to universal observance. Open assaults upon our free institutions can never be successful; and they are not to be expected. If our political fabric ever falls, it will not be by the hands of the avowed enemies of liberty; but by the insidious attacks of its pretended friends, whose real motives will be concealed under professions of regard for the public good.

Power, wherever it is exercised, is ever liable to abuse. To the people is reserved the right to apply the corrective. But if there be no disposition to apply it, the remedy is of no avail. Political power is given to the people to be used; and he who neglects to do so, violates an important trust. Bad laws in a free government cannot long exist, but by the consent of the people themselves. Bad men are ever ready to exercise their rights, while many of our best citizens slight their privileges. But he who has a proper sense of his duty, will on every occasion cast his power and influence into the scale of the government; and that citizen who refuses to perform his duty in this respect, does, tacitly at least, consent to the disorders that prevail in the body politic.

Human nature is the same in all countries and in all ages.--Ambition and the love of power reign predominant in the human

breast; and there are not wanting those in our country, who, though among the loudest in their protestations of attachment to republican principles, would march over the liberties of the people, to secure the power and honors of royalty.

Another source of danger is the spirit of party. The opinion is often expressed, that parties hold a salutary check upon each other, and that their existence gives security to our political institutions. But it must be evident to all who have observed the effects of party spirit among us, that the evils flowing from it overbalance all the good which it can produce. Where freedom of opinion and of speech is tolerated, parties must necessarily exist to some extent; but their existence should be founded upon difference of opinion merely.

But party spirit, when unrestrained, becomes intemperate and revengeful; and it is then that its pernicious effects are seen. Parties, while contending for power, forget right, and lose sight of the public good. The rights of the minority are disregarded. Men, for difference of opinion, are made the subjects of proscription and persecution. In this state of things the strife is for men, without regard to principle; and candidates for public favor, who can hold out the most powerful inducements to their supporters, are most certain of success. And our periodical elections, instead of enabling the people to correct abuses, will prove a fruitful source of difficulty and contention.

The following paragraphs, from the pen of the revered Washington, are given in confirmation of the above remarks:

"Party spirit, unfortunately, is inseparable from our nature, having its root in the strongest passions of the human mind. It exists under different shapes in all governments, more or less stifled, controlled, or repressed; but in those of the popular form, it is seen in its greatest rankness, and is truly their worst enemy.

"The alternate domination of one faction over another, sharpened by the spirit of revenge natural to party dissension, which in different ages and countries has perpetrated the most horrid enormities, is itself a frightful despotism. But this leads at length to a more formal and permanent despotism. The disorders and miseries which result, gradually incline the minds of men to seek security and repose in the absolute power of an individual; and, sooner or later, the chief of some prevailing faction, more able or more fortunate than his competitors, turns this disposition to the purposes of his own elevation on the ruins of public liberty.

"Without looking forward to an extremity of this kind, (which nevertheless ought not to be entirely out of sight,) the common and continual mischiefs of the spirit of party, are sufficient to make it the interest and duty of a wise people to discourage and restrain it."

Let it not be supposed that there exists no cause for present apprehensions of danger to our free institutions. A spirit of insubordination to the constituted authorities and laws of the land, already prevails to no inconsiderable extent. Of the effects of this spirit, our country has witnessed some deplorable exhibitions. The right of trial by jury has been infringed. Punishment for alleged crimes has been inflicted, without having been preceded by even the forms of a legal trial. The right of the people to be secure in their persons, houses, papers and effects, has been violated. The right of persons freely to speak, write and publish their sentiments on all subjects, has been assailed; not, as yet, by the enactment of any law to restrain or abridge the liberty of speech and of the press; but under such an implied sanction of public sentiment, as to authorize the presumption, that such a law would meet the hearty approval of a large portion of community.

The indifference with which these infractions of the laws of the land are regarded, evinces a disordered state of the public mind, which is ominous to the liberties of this country. When outrage and crime are permitted to go unpunished, there can be no security to life or property. And whenever there shall cease to be virtue in the people sufficient to vindicate the laws, and maintain their supremacy, liberty will not long survive.

The most effectual security against these and other dangers to which the government is liable, is an enlightened and virtuous public sentiment. This is, perhaps, the only enduring support to a free government. To enlighten the public mind has ever been considered the surest means of perpetuating the blessings of civil and religious freedom. Ignorance and liberty cannot long subsist together; for when men do not understand the rights which the government confers, they are incapable of maintaining these rights, or of detecting the artifices of crafty and designing demagogues, who seek to attain their sinister objects by misleading and deceiving the ignorant.

EDUCATION is the hope of this republic—the grand means by which the people of these United States are to transmit the blessings of liberty to their descendants. It gives strength and stability to the government, by increasing the moral and intellectual power of the nation; and as it forms the basis of national as well as social happiness, the general diffusion of its benefits is an object that demands the regard of every citizen.

It should be one of the first objects in the education of our youth, to cause them to fix a proper estimate upon the value of free institutions. They must be early made to know that their individual happiness, no less than the happiness and prosperity of the

nation. depends upon the preservation of these institutions. Unless this be done, it is not to be expected that the welfare of their country will be to them an object of deep solicitude. Those who have never learned to appreciate the privileges enjoyed under a free government, cannot be presumed to feel it their duty to submit to any great sacrifices to preserve them.

It is highly important that this principle be inculcated in early life. The great mass of our young men have grown up and come to years of maturity, without having had their attention called to this subject. They commence their political existence without a proper sense of the value of the government in which they are to take a part, and without a sufficient knowledge of its principles, to enable them to discharge intelligently the duties of freemen. They exercise their political privileges, merely because they are privileges--often without any definite object in view, unless it be to promote the schemes of a certain party or individual to whose fortunes they may have become attached.

Patriotism, too, is a principle that should be sedulously inculcated, and universally cherished. Genuine patriotism is that ardent love of country which will induce the citizen to make all needful sacrifices to promote its welfare. And what is better calculated to inspire this sentiment, than a frequent recurrence to the vicissitudes that mark the history of our country? The hardships and dangers that attended its settlement; the political character of the colonies; the oppressions of a tyrannical government; the spirit and firmness with which these oppressions were resisted, and which characterized those who achieved our independence; and the wisdom which planned that system of government under which it is our peculiar privilege to live; are subjects, the contemplation of which will inspire the mind of the youth with a disinterested zeal for his country, that will govern his conduct in after life. Acting under its sacred impulse, the welfare of his country, and the perpetuity of its institutions, will be the objects of his highest ambition. And if the gift of office should, perchance, be bestowed according to merit, and he should be promoted to a seat in the public councils, he would legislate, not for the benefit of any individual or party, but for the benefit of the community.

Education must be united with religious principle. It is not enough that the citizen understands his duties. Knowledge, unless it be properly applied, answers no valuable purpose; if improperly used, it may be productive of great evil. Where the love of virtue does not govern the conduct of men, violations of the laws will be frequent, and the rights of individuals are unsafe. In a corrupted state of the public morals, bad men are mos

likely to obtain the public offices ; unjust laws will be enacted ; and civil and religious liberty endangered, if not totally destroyed.

On this subject, also, we may profit by the admonitions of the patriot whose name we have before mentioned :

“ Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. In vain would that man claim the tribute of patriotism, who should labor to subvert these great pillars of human happiness, these firmest props of the duties of men and citizens. The mere politician, equally with the pious man, ought to respect and cherish them. A volume could not trace all their connexions with private and public felicity. Let it simply be asked, where is the security for property, for reputation, for life, if the sense of religious obligation desert the oaths which are the instruments of investigation in courts of justice ? And let us with caution indulge the supposition, that morality can be maintained without religion.--Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect, that national morality can prevail in exclusion of religious principle.

“ It is substantially true, that virtue or morality is a necessary spring of popular government. The rule, indeed, extends with more or less force to every species of free government. Who that is a sincere friend to it, can look with indifference upon attempts to shake the foundation of the fabric ?

“ Promote, then, as an object of primary importance, institutions for the general diffusion of knowledge. In proportion as the structure of a government gives force to public opinion, it is essential that public opinion should be enlightened.”

Let every citizen be governed by these sentiments. Let education be properly encouraged, and its benefits be extended to all. Let our youth be instructed in their duties as members of society, and as citizens of a free government ; and let them be taught to appreciate the blessings enjoyed under our invaluable constitution. Let every citizen feel himself individually responsible for his moral and political influence, and act with reference to the general good ; and our republican institutions are safe. “ Let America be good, and America will be happy ; ” and, whatever has been the fate of former republics, she will stand an enduring witness to the truth, that **MAN CAN BE GOVERNED AND YET BE FREE.**

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